

**WAYS AND MEANS
and
CONSUMER PROTECTION COMMITTEE
of the
SUFFOLK COUNTY LEGISLATURE**

Minutes

A regular meeting of the Ways and Means and Consumer Protection Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on **October 26, 2004**.

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MEMBERS PRESENT:

Legislator Cameron Alden • Chairman

Legislator Peter O'Leary • Vice•Chair

Legislator Daniel Losquadro

Legislator William Lindsay

Legislator Lynne Nowick

Legislator Vilorio•Fisher

Legislator Elie Mystal

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ALSO IN ATTENDANCE:

Mea Knapp • Counsel to the Legislature

Jim Spero • Director, Budget Review Office

Charles Gardner • Director of Consumer Affairs

Joe Schroeder • Budget review Office

Ilona Julius • Clerk's Office

Ben Zwirn • County Executive's Office

Bill Faulk • Aide to Presiding Officer

Warren Greene • Aide to Legislator Alden

Ed Hogan • Aide to Legislator Nowick

Janet Longo • Real Estate Division

Lynne Bizzarro • County Attorney

Kevin Rooney • Oil Heat Institute of Long Island

David Manning • KeySpan
Vinny Fragaria • KeySpan
All other interested parties

MINUTES TAKEN BY:

Donna Catalano • Court Stenographer

(* THE MEETING WAS CALLED TO ORDER AT 9:47 A.M. *)

CHAIRMAN ALDEN:

Good morning. Welcome to the Ways and Means and Consumer Protection Committee. We are going to start off as we normally do with the Pledge, and we'll have that led by Legislator Lindsay.

SALUTATION

CHAIRMAN ALDEN:

An also I always ask for a moment of silence. That's just to remember those who have fallen in defense of our country and those that are still serving over there in harm's way. Thank you.

MOMENT OF SILENCE

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CHAIRMAN ALDEN:

Thank you. Okay. I don't have any cards, but we do have two presentations, but one thing I'm going to do is I'm going to make a motion to take out of order Legislation •• Resolution 1877, that's seconded by Legislator Losquadro. All those in favor? Opposed? It's an appointment, and we have the person right here. Any opposed to taking it out of order? Thank you. All right. **1877, (appoint member to the Suffolk County Ethics Commission, Steven J. Wilutis)** is before us. Mr. Wilutis, you are here? Good morning. Come on up. You have the option of either standing or sitting, whatever way you feel more comfortable. There's a resolution to appoint you to Suffolk County Ethics Commission. And I want to thank you for appearing. Usually this gives us a chance to get to know you, ask a few questions. And I'll just

start, then other Legislators will probably have other questions. Why do you want to do this? You don't get paid, right?

MR. WILUTIS:

I don't get paid. I spoke to Rich Johannesen about it, and I don't know why I want to do it. Actually, I've been interested in the public sector for a long time. I was an Assistant DA for 15 years. Seventeen years ago, I left the DA's Office. I'm a practicing attorney, and I've been active in my community throughout my life. I'm interested in this. I believe very strongly that public officials have a public trust, and I've been appalled lately by what's been going on in the town that I'm from, in the County, all over. There's been, I think, on some individuals a lack of public trust. And I think that has to be addressed. And I'd like to get on this commission, look at things and help out whatever I can do.

CHAIRMAN ALDEN:

There's going to be a lot of time. You talk to Rich, you are going to know he's putting in a lot of time. In the past, it hadn't been that much of a commitment, but now we are trying to do things a little bit differently and more actively. So do you have that kind of time that you can put in?

MR. WILUTIS:

I have the time. I spoke to Rich about the time, that was a concern that I had. But I have the time. I'll be able to spend the time at night and weekends and so on. I am confident I can do that.

CHAIRMAN ALDEN:

Legislator Losquadro, did you have any questions or comments?

LEG. LOSQUADRO:

I think knowing Mr. Johannesen as I do, I think if he finds as much time as he does with four young girls running around, I'm confident that if Mr. Wilutis says he can devote the type of time necessary to this, obviously we are looking to go in a new direction with the Ethics Commission, and I applaud your desire to work essentially in a voluntary capacity such as this to try to help address the problems that, you know, have been plaguing, you know, the public sector at this point. So again, thank you for coming forward and stepping up to serve in this capacity. I look forward to having you there.

CHAIRMAN ALDEN:

This ends up a two stop process. Here's we usually, you know, have you come down and we ask you the questions. If it passes out of the committee today, it will be at our next General Session where it will be voted on by 18 Legislators. Usually the procedure is that you don't have to show up there. Unless there was some, you know, major questions that were brought up today that you couldn't answer or needed to be addressed, you really wouldn't have to go at that point. So unless there's any other ••

LEG. NOWICK:

Just a comment.

CHAIRMAN ALDEN:

Legislator Nowick.

LEG. NOWICK:

Just a comment. I am pleased to see you here today, and I just want to mention that having known you many years ago through the court system, your reputation precedes you, and it is a pleasure to have you here.

MR. WILUTIS:

Thank you. Thank you.

CHAIRMAN ALDEN:

I'll entertain a motion by Legislator Losquadro to approve.

LEG. LOSQUADRO:

Cosponsor, Clerk. Thank you.

CHAIRMAN ALDEN:

So we have a motion by Legislator Losquadro, seconded by Legislator O'Leary. All those in favor? Opposed?

LEG. VILORIA • FISHER:

Abstain.

CHAIRMAN ALDEN:

One abstention, Legislator Vilorio•Fisher. **APPROVED. (VOTE:5•0•1•1) (Abstention; Legis. Vilorio•Fisher) (Not present; Legis. Mystal)**

You passed out of the first process, so the next one is just at the General Session. We'll be bringing up the same resolution. Thank you very much for coming down.

MR. WILUTIS:

Thank you.

CHAIRMAN ALDEN:

And actually for stepping forward and volunteering.

MR. WILUTIS:

Thank you.

CHAIRMAN ALDEN:

Thanks. All right. In the mean time, I did get a card, Judith White for the public portion. Is Judith White here?

MS. JULIUS:

Mr. Chairman, I think she stepped in the back.

CHAIRMAN ALDEN:

All right. We'll skip over the public portion for a few minutes. And we have Mr. Manning from KeySpan.

MR. MANNING:

Thank you very much, Mr. Chairman.

CHAIRMAN ALDEN:

Thank you for coming down. This is something •• I guess, the purpose of your visit or the subject matter of your visit is something that's going to be very, very pertinent in the coming months. We're already hearing people, you know, say to us as constituent to their elected official that they're going to have trouble making their payments for heating. So this is something that's on our minds. And any light you can shed on the matter and what we can

expect and anything that can be done about it. Thank you.

MR. MANNING:

Thank you very much. Well, I'll speak loudly. It's an important issue. And thank you, members of committee, for taking this time. We wanted very much to get in here before the phones started to ring. And as a result, we're our key message is this, we are all in this together, whether you are a Legislator, whether you are in the energy business, whether you are a gas supplier, whether you're a oil supplier. We have been here before. We have come into address this committee in the past on this issue. We have never been in here before at these prices.

We have made available to you a copy of the National Petroleum Council Study on Natural Gas, which was completed last year. Bob Catell chaired •• our Chairman, Bob Catell at KeySpan was the chairman of the demands section of this report. Lee Raymond, Chairman of EXXON, did the upstream. I was the functionary. This was two years of my life in this report. It's about a hundred page summary. The actual report itself is many volumes. I think what we're here to tell you is that the price of natural gas today which is going to average about \$7 is trafficking this study, and I can explain why that's happening.

We also have for you •• we've handed out the latest report from NYSERDA. And NYSERDA puts out a regular tracking summary of the oil; heating oil in storage, available stocks. You are all aware that the price of crude oil is well other \$50 now, and has been hovering at levels which you have not seen for some time. What we're more concerned about is getting through the winter for the consumer.

As I said, we are all in this together. And the only response we have right now is communication, communication. So we're here to answer your questions. I'd like to give you a bit of a snapshot of what is happening and just touch on one or two of the issues we could face. First and foremost on the gas side, oil storage is an issue, but gas storage is not. We're actually running about four to 5% above •• nationwide above the five year average numbers. So gas storage, which was an issue last year, is not an issue this year. Notwithstanding the five ••• the four hurricanes that came through Florida. That impacted production out of the Gulf, which is one of the drivers of these higher prices. But we have got •• we are very comfortable going into the winter in terms of gas available.

KeySpan is a very conservative company. We have under our ownership or control, 103 billion cubic feet of natural gas going into the winter. About 80% of that is in the Pennsylvania region, which is in what we would consider our service territory, that we don't have any storage formations right around New York or Long Island. You can't store gas right here in New York State. You have to have geological formations to do that. About 20% of our supply is in the Louisiana area. So it's in the ground, but it's available to the pipeline.

In New England, we're actually in the 66, 67% range because we have a lot of liquid natural gas storage in New England. So we are in very good shape going into the winter. We've also purchased that gas at summer prices such as they were. So we have been hedging about 50% of our supply. The other 50%, this is all regulated by the Public Service Commission, we'll be purchasing. So going forward, we anticipate about a 10% increase in customer bills this winter on the gas side.

The other issue that we're facing in the energy business is that heating oil storage inventories are down about 24% relative to the five year average. And of course, the replacement cost of those stocks is extremely high. Also the refining capacity is very strained in the United States. The next study of the NPC is on refining capacity US•wide. It was supposed to be out two weeks ago, it's been delayed. That in itself is a bit of a concern. They did reduce •• they did release •• the White House released some of the strategic petroleum reserve this fall. The reason they did that was because there were some refineries that were not running at full capacity. And the concern going forward was that they had to use every minute of every day in those refineries available to make sure that we had the inventory. So they reduced some of the •• they released a couple of million barrels of the SPR to keep those refineries full and make up for the supply, which was not coming in from the Gulf.

So that's our situation now. Oil storage is probably in a little better shape in New England. It's probably in a little worse shape in the Mid Atlantic. It's not great here. It's not perhaps where it needs to be. The major oil supplier, Star Gas Partners, which is the parent of PETRO, is struggling. They have some major financial issues with the banks. They issues that statement last week. They have not filed Chapter 11, but they've indicated that they're now on a day•to•day relationship with their bankers. You can see why, because they're having to purchase inventory at \$55. They have to pay within three days of receipt of that oil. They don't then collected for over a month from their customers. So you can see where they're being very

badly stretched. But that's worries us in terms of how much oil will then go into the tank.

So as I indicated, it's a concern for all of us here in the energy business, because this will have a high impact, hard impact on those least able to afford it. LIHEAP is a federal program. We have been fighting hard for years to maintain the LIHEAP funding the way it should be. There was a major initiative to spread the LIHEAP funding around the entire United States so it wasn't so weather sensitive, because most of the LIHEAP dollar money, of course, is going to the north. So we have been fighting to hang on to that money. A couple of years ago, LIHEAP ran out in March, and KeySpan had to fund •• through the United Way and Hard Share, we had to fund \$3 million of funding, and most of went into oil by the way, not gas, because there were no LIHEAP funds available and people were just not able to pay their heating bills.

So I don't know that we are in a position to do that today. We did that a couple of years ago. We felt we had to. So it has been tough issue, and I'm worried now it will depend to some extent on the weather. So as you know, we're expecting much higher heating bills. One thing that you also have to keep in mind is that when it gets very cold, the Public Service Commission allows KeySpan to switch off its largest consumers. We build our system to the firm customer base. So anybody on the Island can sign up for firm gas. We build our system to be able to meet that load on the coldest day of the year on a 60 year basis. So we look at the coldest year in a 60 year analysis •• coldest day, and we have to build to that, and the PSC allows us to do so.

So obviously, a great deal of the time, there's empty pipe available when we're not having to run that volume of gas. The PSC allows our larger customers to buy that space. And often, we are not the gas supplier, but we allow that space, and those customers are temperature controlled or interruptible, so that when the temperature drops below ten to 15 degrees below Farenheit, they automatically switch over to an alternate fuel, and the Public Service Commission insists that they have a ten day supply of heating oil available. Now, many of those large institutions are Number Six Oil, so they're not impacting the homes. The homes are using Number Two. So Number Two is a much lighter oil, it's a better refined oil. Number Six is a much heavier oil. You have to heat it just to move it.

So you have to keep this in mind, that when this issue does come up, and there may be some spikes in the cost of heating oil, there will not be gas spikes, because we, in fact, have got enough of a hedge in place that there will not be a dramatic impact day•to•day. If the weather

is bitterly, bitterly cold, our prices may go up slightly, but we've hedged the majority of that, but there may be some spikes in the heating oil side. And it may be an issue, because you may hear about a major hospital or a power plant running on oil versus gas. But for the first point, it's not heating oil in a home, it's a different type. And number two, that is the system that's been put in place by the regulator for some time. So that's what we're facing. You are going to have concerns of those who can't •• who can least afford it. There is some federal money from LIHEAP that is •• that has been doled out by the state. It's not where it needs to be. It would depend very much on the weather. I'd like to answer your questions.

CHAIRMAN ALDEN:

Legislator Vilorio•Fisher.

LEG. VILORIA•FISHER:

Thank you, Mr. Manning, for coming down. It's nice to see you again. About six months ago, a year ago, there was quite a bit written regarding our running out of natural gas, you know, the resources running, and yet what you are indicating here is that that's not so, that you have reserves, that you the availability and the supply?

MR. MANNING:

What's happened is this; many of the gas fields in Texas and Louisiana, the John Wayne grilling stories that we used to see years ago, those wells are getting tired. So a lot of those wells are maturing. Much of that supply was made up in Canada, which was much less drilled. So the Canadian supply has grown from about three or 4% 15 years ago to about 16, 17% today. For the first time, the Canadian production peaked. As a result, we didn't have continuous growth and supply, and that caused the story six months ago that we were running out. Of course, we are not running out, but what we are now doing is we are now getting more diverse in our supply. There's a tremendous amount of gas in the Rocky Mountains. We drill in the Rockies in Canada with some very sensitive drilling technology. We'd like to drill more within the United States, because we know there's a couple of hundred TCF of gas there. So that's an issue with the states that if we had better access to some lands, not wilderness lands.

So there's more gas available here. There's a lot more gas available off Florida. It's currently off limits to drilling. We are drilling off the eastern coast of Canada, but not off the west coast of Florida. So there's a lot of reserves within the United States, which are not currently being accessed. There's a lot more gas that's available in Canada, which is •• which is still available

to us, but in fact, the growth is not going, they're drilling at a pretty good rate now.

There's •• in Alaska, the issue around the Alaska pipeline, and a lot of the noise that you were hearing was actually driven by the Governor of Alaska, because Alaska would very much like to build that pipeline, and we would very much like to see them get that done. Alaska has a huge mother load of gas. It's produced with the oil so they can't stop it. They have to produce it. It comes up with the oil, and the oil is shipped out and has been for the last 20 years. Alaska is injecting eight BCF a day of natural gas. And the compression in the pumps are burning a BCF a day down into the ground, and that's just in storage because there's no pipeline.

What's happened, however, in the last three or four years is more and more of our power plants are running on natural gas. Because of the air quality standards, the difficulty is that the environmental standards of this country ••

LEG. VILORIA • FISHER:

It's cleaner.

MR. MANNING:

It's cleaner, absolutely. So the environmental standards want clean air, but, of course, we have some issues in terms of access on the lands. So that disconnect created a lot of concern about the future supply of natural gas. But what's happened is the demand is up dramatically for us because of the environmental benefits. The demand on the oil side, the oil pressure, is coming in large measure from China, that the voracious appetite with China's economy booming, they're buying up a lot of oil which is at sea today.

LEG. VILORIA • FISHER:

Okay. David, what about the infrastructure here on Long Island, the pipelines? There were projects that were begun that weren't completed, have they been completed, where are they, what's the status?

MR. MANNING:

I promise to brief. However, you know that this is •• I'm passionate about this. We have a single pipeline which serves Eastern Long Island, and that's the Iroquois Pipeline. And back in the '80s, if you wanted natural gas on Long Island, you couldn't get it. There was a moratorium because the pipe from the south were full. And it was •• quite frankly, it was Bob Catell, the

Chairman of KeySpan, who then went up to Canada, and it took six years to get that pipeline approved and six months to build it. And it starts all the way in Alberta, Canada and comes all the way to Northport. And Connecticut did everything they could to stop that pipeline. And we got it build, and the price of gas dropped a dollar. Now, at the time the price of gas was three bucks. It went down a dollar on Long Island the day that pipeline opened. The gas went up a dollar in price in Alberta, because the gas was trapped back there.

So the Iroquois Pipeline opened up the grid into Long Island. Now we need to do it again. And Islander East would be a pipeline that would bring in these new supplies from Nova Scotia, the eastern supplies that didn't exist in 1990 •• they existed, they just weren't discovered. So Islander East is designed to bring in another different supply, create price competition and create greater security. Unfortunately, Connecticut •• FERC approvals are in place, all of our New York State approvals are in place, there is one water quality permit we still need from Connecticut, and we've still not been able to get that done.

So that pipeline is designed to provide initial supply, initial security and also new supplies, of course, from the northeast. And that's another topic for the Energy Committee, in fact, and we would welcome the opportunity to address that again.

LEG. VILORIA•FISHER:

And I just had another question. I just want to clarify something that you said, you represented that you are anticipating a 10% increase in gas?

MR. MANNING:

Yes. That's in the customer bill. Don't forget the customer bill has to take into account the transportations cost, because we have to get the natural gas from its source to the burner kit. So that •• that fee doesn't change. That's our •• that's our expense, and the pipelines, and that's controlled by the Public Service Commission. So the gas supply portion is one component of the customer's bill. So you've got one component of the bill which is going up, so by the time it hits the customer's bill, the increase that they will see will be about 10%.

LEG. VILORIA•FISHER:

And I just have one commercial announcement for those of you who are members of the Public Works Committee this afternoon, the LEED Legislation for the pilot that will come before you, if

you look at page 20 of this •• this publication, you will see that energy efficiency, conservation are such an important component. We're looking at tremendous increases in fossil fuels this year. And we really need to be proactive in Suffolk County and be very aggressive in conservation and energy efficiency. We really need to do that. And the pilot program that we will be looking at this afternoon in the Public Works Committee are for LEED buildings, and I'm sure •• I know that you are familiar with LEED and green buildings, we've talked about it. And I hope that we will get a little support on that, because we need that conservation.

MR. MANNING:

The key finding here was that because of the lag time in bringing on new production and new infrastructure to build, the only short term solution to our problem is energy efficiency and conservation. Now a lot of that's already happening with major consumers, and at these prices, you can imagine that people are putting in high efficiency appliances, high efficiency •• that's happening, and it's making a difference. But in that study, you will see that it needs to be a big number. It's five PCF a year over the life of the study that would just come from efficiency.

LEG. VILORIA • FISHER:

Thank you very much.

MR. MANNING:

Thank you.

CHAIRMAN ALDEN:

Just a follow up to your public announcement, I hope we're going to look at the internal combustion engine too and the use that we have of in •• in your fleet, because I feel that maybe our fleet is not getting the mileage that it should and maybe some of the technologies and things like that that exist today that didn't exist even five years ago, maybe we can employ some of those things.

LEG. VILORIA • FISHER:

Well, they know I've been trying to fight that for five years.

CHAIRMAN ALDEN:

I've been doing that for seven years, so.

LEG. VILORIA • FISHER:

Exactly. We've been trying to get that in our buses in our fleet. And it's the way to go, but sometimes government works a little glacially.

CHAIRMAN ALDEN:

I agree with you. Legislator Losquadro.

LEG. LOSQUADRO:

I'll make my own public service announcement. I've filed a piece of legislation regarding alternative fuels, so we will see that coming before us very shortly in the next cycle. I won't bore you with it now, it's quite technical, but suffice to say, there is something coming.

CHAIRMAN ALDEN:

And this is coming from a true motor head. Thank you.

MR. MANNING:

On that note, we did have an opportunity to help convert the first school bus fleet. Unfortunately, it wasn't in Suffolk County. But when we went out to introduce this, we lined up the three vehicles; the traditional school bus, which is operating on mass around the country, number two was the new high efficiency filter diesel, which is in •• using ultra clean diesel fuel and it very rare, but it's the newest technology, then we had a natural gas school bus. We lined up the three of them, took out the inevitable white handkerchief, and of course, over the diesel bus, within three seconds, it was jet black. And then the new bus •• you know, we held each one for ten seconds. The next bus was pretty dark gray, and then for the third bus in front of the cameras, I blew my nose in the handkerchief. Off the back of the natural gas bus, the handkerchief was completely white at the end of ten seconds coming off that pipe, so it's not just an efficiency issue and a fuel supply issue, there are some big environmental issues around this as well. So that's my commercial.

LEG. VILORIA • FISHER:

Didn't Longwood School District have a change in fleet?

LEG. LOSQUADRO:

I'm not sure.

LEG. VILORIA • FISHER:

I saw the at a Clean Cities Meeting.

LEG. LOSQUADRO:

It might have been Long Beach, I'm not sure.

LEG. VILORIA • FISHER:

No. It was Longwood. Maybe it hasn't been fully developed yet. I know they were at Clean Cities and won an award.

MR. MANNING:

The announcement we just made was in Long Beach, and it's the Long Beach School District.

LEG. LOSQUADRO:

I thought it was Long Beach.

LEG. VILORIA • FISHER:

Okay. I 'm wrong then.

LEG. LOSQUADRO:

You addressed one of my questions, which was about the Islander East Pipeline, about how that would effect the market and supply on Long Island. Tied in with that, since we have you here and you're obviously an expert on the •• you know, the price of these commodities, I know many of the plants are not dual fuel, that, you know, they are single source, you know, diesel fired, how do you anticipate that reduction in supply in the fuel oil capacity impacting residential customers in terms of their electricity bills? Being that many of the plants are not dual fuel and cannot be operated on that supply that you can sort of control because you've hedged it, which, you know, I think is a great thing if you are talking about minimizing that impact over the course of this winter, that's wonderful, but how do you anticipate the residential customers being affected on the electricity side? Because we have seen those numbers continue to climb and excess fuel cost surcharges, what do you anticipate happening this winter?

MR. MANNING:

That was a tough issue in New England particularly. You probably saw some of the press on the 13th and 14th of January of last year, it was the coldest weather they had every recorded in the

New England •• in the Boston area. We actually lost 500 customers and had to put them in hotels and higher plumbers. And we just •• our system was completely maxed out. It wasn't a supply issue, it was just the system itself couldn't support that much flow, so the outer reaches, we had to take one area down.

What happened there was that some of the power generators because of the fuel price, the City Gate price, of natural gas and oil both went •• went into oblivion, then were then •• they sold off their firm supply rather than run their plants. So the ISO got very, very concerned, because they made an economic decision as to whether they could make more money selling electricity or more money selling their fuel supply. We're just talking about a period of hours here. So it wasn't the gas supply business, it was •• there were some independent generators, and I don't know that we ever really got that documented, but it created a certain.

Here on the Island, our big base load plants, there are five major plants, including Northport, those plants all run on natural gas, they're all dual fuel, those ones are, they're run on natural gas or they will run on Number Six, which is, like, the big heavy stuff which you would not be able to use in your home. One of those plants traditionally runs just on natural gas, but they all have that capability. I'm just getting coached here.

LEG. LOSQUADRO:

I know that the new Yaphank facility that's being proposed is a dual fuel site, correct?

MR. MANNING:

That's the difficulty is that •• is that •• yes, the Yaphank facility that's being proposed is designed to be dual fuel, but they do •• they do have to nail down that fuel supply, and that's one of the reasons why Islander East is critical to that project. So while they intend to have that capability, where we run •• ran into some traffic on the Spagnoli Road proposal, was that the local community resisted oil as a backup fuel. They wanted a clean burning natural gas plant. So if in fact they're not dual fired, it's largely because of local reaction to the air quality issues. The Wading River Plant which is relatively new in the fleet, and it's very current technology, it does not have gas supply. So the first thing Islander East would do, when it landed was it would convert that plant. One of reasons we want Islander East is because the plant could then run more efficiently and would run longer because of the air quality standards. We can run it for so many periods •• so many days a year.

LEG. LOSQUADRO:

I'm familiar with the PP&L, that's my backyard. I live in Shoreham.

MR. MANNING:

Well, of course, KeySpan has a plant at Wading River, and then of course, the new Peaker is in the same boat. Our plant is actually larger. So all of those plants there would be converted the moment that pipeline arrived. Those plants, like Wading River, which does run on oil, that oil is scheduled a year in advance. So the transportation arrangements are made, the oil is purchased. So we buy out a year ahead. Now, a lot of our combustion turbine units will run on kerosene, but once again, there is a fuel design which is done generally a year in advance, because we can forecast when those are used. Demand is much lower in the winter. So when those plants, those smaller units are running flat out, they're running flat out in the summer time because of the air conditioning load. So we don't fire up the combustion turbines nearly as much in the winter time. Then, your power is largely coming from a base like Northport. In the winter time, Northport plant alone can handle over 50% of the demand for the entire Island.

LEG. LOSQUADRO:

So what you are saying is the base load plants that are dual fuel currently can handle the capacity for the winter. So you do not anticipate a major impact on electricity prices for residential customers this winter based on the •• based on the short ••

MR. MANNING:

Exactly. Some of those smaller units will run because of their location on the Island for load balancing, but that's forecasted, projected and the fuel is secured. And as I said, we are very conservative utility, so we purchase our fuel in advance. So that's all hedged and the supply is available. So there would be no impact on the home heating customer by •• through the operation of those plants. And the electric prices unfortunately, of course, will reflect the fuel cost going in, as you know. But that's not a supply issues, that's a world price of oil issue and a world price of gas.

LEG. LOSQUADRO:

Again, as I said, you are sort of an expert in the area of price of those commodities, what do you anticipate the impact? Because of the increased price of that supply, what do you

anticipate the impact of the price of electricity for the residential customer being?

MR. MANNING:

Again, the fuel cost is just one component. You have •• you have both the capital invested in terms of the physical plant, you have labor, and you have fuel. Those are your three major components. So the only one that would nudge would be your fuel component. The fuel component is hedged. So, you know, the supply to LIPA is largely hedged going in so we've done everything we can to reduce the price going in as we have for our own gas customers. And, of course, decisions were made based on environmental ability •• capacity and fuel supply as to which fuels those plants will use. So both those two, hedging and fuel choice mitigate the impact, but as you have seen, LIPA has had to put fuel surcharges on over the last period of time, because the fuel charges •• fuel costs continue to rise. So I don't know, depending on the temperature on this weather •• it will depend on the weather, it will depend on what happens to pricing. As I said, we are anticipating an average cost of gas of \$7, but it depends also where oil continues to go. So it's difficult to say •• I wouldn't say a significant impact on electric. I think LIPA is indicating that they've just done a recent fuel surcharge, and I think that was in anticipation of this year's needs, but I don't want to speak for LIPA.

LEG. LOSQUADRO:

You're doing a pretty good job of hedging your answer, you should come sit behind here. No, I don't blame you. Obviously, you know we •• no one has a crystal ball, we can't predict what this winter is going to be like. We hope it's not like the last two, because that did, you know, tax us very badly in terms of the heating and our fuel supply.

MR. MANNING:

And the reason why you watched me scramble was because our rates are set by the Public Service Commission, LIPA's rates are set by themselves. We don't speak for LIPA. LIPA gets very anxious when we do speak for them, because we do operate the system for them and we •
• we own and operate those plants, so very few people understand that relationship.

LEG. LOSQUADRO:

Of course. I was just trying to get our insight as to how you thought the fuel supply would affect the rates, but I appreciate your insight.

MR. MANNING:

I think it's already built in to a large extent.

LEG. LOSQUADRO:

Okay. Thank you.

CHAIRMAN ALDEN:

Legislator Nowick.

LEG. NOWICK:

Good morning. Thank you for that presentation, which was very complete. And I'm glad you came here before the calls start coming in. Although I will say when they come into my office all these people want to know is, can I turn the dial? Will the heat go on? What's my bill going to be?

But having said that, I would like to •• I'm Chair of the Energy Commission •• Committee, and certainly, if you would like to come and make a presentation before us, that would be wonderful.

MR. MANNING:

We would very much •• both on this topic and also on just infrastructure. You know, the need, the reliability. I think you would have some concerns and questions in the event we lost some of our fuel supply through some uncertain event. We are not worried about the winter in terms of reliability, the gas supply is available, our system is operating well. So we don't have any immediate concerns. But longer term, I think if you have a region that is so dependant on energy, such as the north •• you know, the northeast, you would want to make sure that you not only have reliability in items of duplication and redundancy within the system, but you also •• the more supply you have coming in from different regions •• now we have gas from the Gulf, we have gas from Western Canada, we'd like to gas on the Island all the way from Nova Scotia, which is really the closest resource. Nova Scotia is right at our back door. I mean, we can •• you could drive there in eight hours.

LEG. NOWICK:

Actually, we're dependent on it as well as the warmer states, because you say the air conditioning ••

MR. MANNING:

The air conditioning kicks in.

LEG. NOWICK:

In the summer time down south, the air conditioner just kicks and kicks and kicks.

MR. MANNING:

And it's very difficult to build a coal plant today, and even the price of coal has gone up significantly with this run up of energy price.

LEG. NOWICK:

Just one question, if you see a blank face when you make your presentation, lining, is it lying, l
•n•g?

MR. MANNING:

Oh, LIHEAP. I'm sorry

LEG. NOWICK:

What is that?

MR. MANNING:

Low Income Housing Assistance Program or Home Energy Assistance Program

LEG. NOWICK:

We call it the HEAP. Okay. Thank you.

MR. MANNING:

We call it LIHEAP, and I'm sorry, I hate to get, you know ••

LEG. NOWICK:

That's okay.

MR. MANNING:

It's a tough issue for us, and it's a noisy •• it should be a more noisy issue, because there is a

lot of federal dollars which are made available to regions such as ours, which need them to help out people who can least afford to pay their heating bill. However, that fact is not lost on Texas and other regions that don't have the heating bills that we do, and they see federal dollars going to the US Northeast, and needless to say they're thinking, well, gee whiz, you know, we should get our cut. So there has been a battle in Congress as to where that money should be directed. We spent a lot of time and money, KeySpan does, in Washington trying to protect that money, because as you know, it's very difficult for us to discontinue service to those who can't pay. It's in our interest in keep everybody warm.

LEG. NOWICK:

Thank you. And we will be in touch about having you at the Energy Committee.

CHAIRMAN ALDEN:

Legislator Nowick, as a point of information, we have another distinguished gentleman with us today, Kevin Rooney, I would suggest that, you know, if you are going to have a presentation, you would include Mr. Rooney. I'm sure he would be willing to come down also, because he can fill you in a little bit more on the oil side.

LEG. NOWICK:

That would certainly be possible. We'll make plans.

CHAIRMAN ALDEN:

Mr. Rooney is nodding his head.

LEG. NOWICK:

We'll have a panel.

MR. MANNING:

Sure.

LEG. NOWICK:

Okay. Thank you.

CHAIRMAN ALDEN:

Legislator Lindsay.

LEG. LINDSAY:

Gentlemen, your testimony is that you anticipate a 10% increase in the cost of gas to customers?

MR. MANNING:

In the customer's bill.

LEG. LINDSAY:

When would we expect to see that in their bill?

MR. MANNING:

Well, the actual heating seasons kicks in •• now, many of our consumers are on the budget plan, so they are allowed to pay an equal amount every month year round so that they end up paying much more in the summer than they consume, and it's knocks the edge off the very cold months, which is usually November through March. So, you know, you will probably see something, you know, when the January bill •• sir, it's just weather sensitive. So if we have a very early cold snap, if we have a cold November, we don't have any supply issues and a lot of our gas is already in storage, but you could see •• in the December bill you could start to see the impact, more likely it will be in the in January•February range, we're just based on the weather, because not only does your consumption go up, you know, there's more demand on the product. The actual price of the gas we buy in January will be more than what we purchased in August, because we will be buying some gas. The PSC allows us to hedge, but it also makes us buy on the market for the rest •• and we have no problem doing that, but the gas cost or the oil cost has gone up, and then, of course, the consumption goes up. So it's a double it. So that's usually a December•January•February issue. When we get the calls is the January and February bills for the most part. It's in that December•January•February period.

LEG. LINDSAY:

And the reason for the increase, again, is because of supply ••

MR. MANNING:

Well a lot of the pressure on the natural gas right now is the price of oil. A lot of the pressure on the price of oil is really supply and demand. An awful lot of it is now going to China, it's

going to the Far East. So the world price is now at about the 50 to \$55 range. And we are all price takers here, we have to pay a world price. On the gas side, while we are not •• we are not shipping natural gas to foreign countries, a lot of people who would normally be able to burn oil are switching to natural gas. So big industrial consumers, gas right now it cheaper than oil, so as they switch over to gas, that drives the demand up, and we all pay a little more.

LEG. LINDSAY:

What is the percentage of •• I mean, natural gas is really a North American resource, am I correct in that?

MR. MANNING:

Well, it exists all over the world, but because •• our supplies here all come from domestic sources because it comes by pipeline. Oil is just a big liquid, and once it's on the ship, it can go anywhere. We are •• we are using a lot of liquid natural gas from other countries, primarily Trinidad, in New England. So L&G does have a role, but right now it's one to 2% percent of US supply.

We get about 16% of our gas from Canada. Long Island gets a little more. The Long Island number more than 20, 25% range because of the pipeline that come from Canada and goes right to Northport. So we get more of our gas from North America, but because it's a vapor, it travels by pipe. So you can't chill it at 250 degrees and ship in a tanker, and there is a lot of gas around the world. And that why •• and I'm sorry Legislator Fisher left, because about 6% of the world supply of natural gas exists in North America. We do have the highest consumption, but there's enormous supplies of natural gas in Russia, in the Middle East, in Trinidad, in West Africa. So there will be an almost infinite supply of natural gas, but it will have to come here by ship. So we will have to use more liquid natural gas in the United States over the years because our domestic consumption is so high. It's so high because we have the highest environmental standards.

LEG. LINDSAY:

Just one other question.

CHAIRMAN ALDEN:

Legislator Lindsay.

LEG. LINDSAY:

I know that both KeySpan and LIPA have funded experimental alternatives •• you know, right outside here we have a fuel cell demonstration, and I know that there's several sites around the County that you are experimenting with fuel cells, how is that going?

MR. MANNING:

Well, fuel cells •• our company has been active in the fuel cells since the '70s. We were actually one of the originals, and we're also one of the largest servicers of fuel cells in the country, KeySpan is. So we have committed a lot of own time to the fuel cell technology. There are some units which are two megawatts, which are substantial, now being built in Connecticut. There's 200 kilowatt units. The small ones you see from plug power, they're seven kilowatts. We do still think that technology shows a lot of promise. It's not economic yet, so it tends to get done with incentive programs. We also •• KeySpan operates the largest natural gas vehicle fleet in the area, probably in the country. We still believe in natural gas vehicles largely because of an environmental reason, but also because it is an alternative fuel. And most of our vehicles are dual fuel, you can go back and forth between petroleum and natural gas, and that's an option, although we have certainly sold that fuel primarily because of air quality benefits. The school bus study that came out in California a few years ago showing the diesel particulate within school buses was just horrendous, and that's driven a lot of that. So fuel cell are working. I won't get into the reforming technology which is lagging behind. So they're working, but they're still very costly. We think at some point they'll get better. There's been a lot of technology improvements on hybrid technology. And you're now seeing that, you know, on a readily commercial available basis. We still operate a number of vehicle fleets on Long Island that are running on natural gas. So I think you're right, the issue is there are options, and as they get more and more use, they'll become more and more affordable.

CHAIRMAN ALDEN:

Legislator Nowick •• I'm sorry. Legislator Losquadro, then Legislator Vilorio•Fisher.

LEG. LOSQUADRO:

I apologize. I don't remember •• I thought it was KeySpan that was planning to erect the wind turbines, since you brought up the Wading River •• you know, the Shoreham site, is it KeySpan that was planning to erect the wind turbines there?

MR. MANNING:

No, we have done some wind turbines, and we are at looking at some other technologies such as river current turbines and wave technology. The actual turbine project, there's one, which is fairly advanced in New England is Cape Wind, and then the one off Long Island is to be done by LIPA. And as I understand it, I think they're working with Florida Power and Light.

LEG. LOSQUADRO:

Right. But there are two or three smaller wind turbine planned up at the Wading River site. Obviously it's not KeySpan that's doing that. But what I wanted to ask you about that was traditionally the criticism has been that the wind is at its greatest here on Long Island when our demand for electricity is at it's lowest, but from what we're hearing here is that when the fuel sources are at their highest, we can reduce the usage of those fuel sources by using that wind power and creating the electricity. So in essence, the plants would have to run less, and we would, therefore, reduce our consumption of the fuel while it's at its highest cost. So, I mean, if you look at the argument that way, I think it makes a very strong case for these alternative power source such as wind turbines because we have a •• you know, all you have to do is go outside this time of year and you see that Long Island has, you know, those good steady winds out of the northwest.

MR. MANNING:

And, of course, you have it exactly right, that there's always going to be room for renewable when you dial down your alternatives. So the argument is that you could never use those as your sole source, that's the •• but they never are. The challenge with wind is that if you took advantage of •• and I'm former deputy administrator of energy from Canada, and we built windmills in my former life in the Canadian Rockies when you're standing there and the wind is just blowing through a pass, and we then privatized those. They were •• we built them made, that actually made money, we sold them off. So that technology •• there's ten thousands solar cells in Saskatchewan, and the reason is there aren't as many poles and as many wires in Saskatchewan. So the pipelines •• so, you know, the right technology fits where it's needed.

Unfortunately, if you built on every wind ridge, if you took advantage of all those building opportunities, wind power would never amount to more than one or 2% of the •• of the entire nation's supply needs. We use an awful lot of power. That is not a reason not to build them. I mean, that's my point, is that there absolutely should be a portfolio supply. And we don't have a lot of room for solar. Solar is a challenge. It's better suited to some other regions. But we do have wind. And, of course, what you do is you integrate that into your portfolio. So you

need to have a suite of options, which is we were the first comer to capture methane gas off the dumps of Staten Island. And, of course it's methane. It seeps out of the landfills, so you just put down a plastic sheet and you trap it, and you bring it up, and you put it into a very small generator unit, it burns right out of the ground, then you take the energy off by wire.

So that's existing now. It's not a big number, but it's capturing a heat source, which would otherwise be a contributor to global warming. So there's lots of stuff •• and Toronto did six of those and got declared a Green City. They didn't take one car off the road, all they did was capture the stink off the dumps and they got an award. We've been doing that since the '70s.

LEG. LOSQUADRO:

Thank you. I look forward to working with you on a number of things.

MR. MANNING:

I look forward to it. We get a little passionate on some of these issues.

CHAIRMAN ALDEN:

Legislator Vilorio•Fisher.

LEG. VILORIA•FISHER:

I'm sorry, I missed part of your remark before. I was over here whispering to Legislator Losquadro how happy I was to see that he is another person who's passionate who will read the details, because you know that we had worked together on some issues, and it was very difficult to get people to read those details, because you have to read the details. And I agree with you regarding having a potpourri of choices. That's important.

MR. MANNING:

Of course, this all ties itself into the climate change discussion. That's how we started. We have always been of the belief that a regional approach is really most effective. But you are right, a regional approaches tend to start in rooms like this.

LEG. VILORIA•FISHER:

Yes. Thank you. I had a question of HEAP, and if it's a very long complicated answer, then I can ask it outside of this venue. But it was my understanding •• now, when I go to Social

Services, I see that there are people there who are receiving HEAP •• some help with HEAP. My understanding has also •• has always been that it's a pass•through, that it comes from the Federal Government through our Social Services. So how would people in Texas, where individuals would not have a need, how would those monies be accessed in Texas if you didn't have the individual needs? I'm curious about how that could be divided or skewed incorrectly.

MR. MANNING:

Well, it's energy use. It's a federal program •• the money is actually given to the states, and the state draws the funds based on their need in terms of their energy consumption. The argument was made that in Texas, air conditioning is energy consumption, so therefore, you should be helping out. And we would argue that if you are facing zero temperatures, and you can't pay you heating bill, it's a very different situation than being in 100 degree heat with a fan as opposed to an air conditioning unit. So it's still energy consumption, we just happen to think that heat for families is perhaps the most critical energy need.

LEG. VILORIA•FISHER:

Okay. Because I knew that it was a pass•through program so there had to be an individual need.

MR. MANNING:

They want to broaden it's use for all energy consumption.

LEG. VILORIA•FISHER:

I see.

MR. MANNING:

And obviously, we're •• we believe that our need is most critical.

LEG. VILORIA•FISHER:

Thank you.

CHAIRMAN ALDEN:

Any other questions or comments? Thank you very much for coming down. And just to let you know too, I don't know if you're going to come back or send a representative back, but we're going to have Kevin Rooney at the next committee meeting just to give us an update on what is

going on on the oil side.

LEG. VILORIA • FISHER:

I'm sorry, I just had one more quick question.

CHAIRMAN ALDEN:

Legislator Viloria • Fisher.

LEG. VILORIA • FISHER:

I had written it down. Getting back to that potpourri issue. If you are talking about •• as opposed to methane. If you only have a 1% savings, if we translated that to how many barrels of oil we would be saving, it would be really a tremendous number of barrels of oil that we would be saving, even if it's 1% saving by wind power.

MR. MANNING:

I would concur that given the level of consumption of energy throughout North America, it would all make a difference. We are a very high consuming region, there's no question.

CHAIRMAN ALDEN:

Thanks again.

MR. MANNING:

Thanks for all your attention.

CHAIRMAN ALDEN:

Is Judy White here? You're the only card we have, so we will go back to the public portion. You have the option if you want to sit or stand, whichever you're more comfortable with.

MS. WHITE:

Just here to answer any questions. I was just here to answer any questions that the Legislators may have with regard to Resolution 1694, authorizing the commencement of eminent domain proceedings for Mediavilla Property in Huntington.

CHAIRMAN ALDEN:

Okay. Do you have the ability to wait a few, because we're not going to get to that for just a

couple more minutes?

MS. WHITE:

I'll wait.

CHAIRMAN ALDEN:

Okay. Thanks. All right. Anybody else wants to address us on the public portion? Come on up. State your name and title for the record.

MR. DALY:

My name is Jim Daly. I work in the Suffolk County Planning Department, and I'm also the Long Island GIS User Group chairman. I'm here today to ask for your support on Resolution 1519, that is creating a Geographic Information System, the GIS Committee. I'd just like to let the Legislature know that we have a problem here with how we manage all of our GIS data sets collectively in Suffolk County.

Most of the County's GIS information is hardwired into information silos or GIS projects within departments where it gets trapped, making it difficult, if not impossible, to access. This GIS Committee, if it's formed, will help with a number of problems. One, it would pull together these GIS silos to ensure that GIS information is consistently available, it's useful, it's relevant, and it's ready to deliver economic value, where it is not at that state right now.

It will also provide leadership for GIS technology in Suffolk County where none presently exists. Because of this absence of leadership, we're wasting money and missing an opportunity to increase the efficiency and the productivity of our workforce. It will also enhance cooperation among GIS users in Suffolk County. And finally, it will save money, it will save lots of money. The committee will review all budget requests for any type of geospacial technology so that spending can be fully leveraged to support the entire GIS community in Suffolk County, not just one department at a time.

I ask you, please, let's create the Suffolk County GIS Committee to begin the necessary measures to make efficient and productive use of GIS technology here in Suffolk County. Now, I understand that there's been a problem with the committee make up, there's no secret about that. There's been •• in the resolution, there's, I believe, seven committee members, and there's four appointed by the Legislature •• four appointed by the County Exec and three

appointed by the Legislature. I think that's really why this bill has continued to be tabled. I ask that we work together to work this out and see what we can do to resolve this problem, if this is, in fact, the issue, and I think that it is. If you have any questions, I'd be happy to answer them at this time.

CHAIRMAN ALDEN:

Legislator O'Leary.

LEG. O'LEARY:

I just wanted to reaffirm that the statement you just made with respect to the make up of the committee, that is the issue. We are in the process of having some talks with the representatives of the County Executive's Office on that particular issue itself.

MR. DALY:

So I would say that we have the overall support of the Legislature except for that one particular spot?

LEG. O'LEARY:

There is support. There is support on the GIS, absolutely, but it's the make up of the committee that there's some concern with.

MR. DALY:

I'd just also like to inform the Legislature that in the proposed budget, there is the GIS Division in the Planning Department, and this committee will be vital to the success of that initiative as well.

CHAIRMAN ALDEN:

Thanks for coming down.

LEG. VILORIA•FISHER:

Mr. Chair.

CHAIRMAN ALDEN:

Legislator Viloria•Fisher.

LEG. VILORIA • FISHER:

Mr. Chair, if I may, because I believe that this bill is really coming to the point where it •• it may be at the point, where it's going to die because of ••

MR. DALY:

It will expire.

LEG. VILORIA • FISHER:

It will be expiring. If Mr. O'Leary is working with County Executive's Office on expanding this, could we discharge it without recommendation, and hope that we reach before Tuesday, an agreement?

CHAIRMAN ALDEN:

I'm not sure. I'm not going to speak for Mr. O'Leary, but I think that the work has been ongoing and it's been going on for a couple of months. That's an optimistic approach to take, but I think at this point, I'd be more comfortable just keeping it here until we have a resolution to that question.

LEG. LINDSAY:

Is it going to die?

CHAIRMAN ALDEN:

But even if it does, they can refile it. That's not a big problem. We can expedite it then as soon as they refile it.

LEG. VILORIA • FISHER:

It will be •• okay. And Mr. O'Leary, are these •• you are not •• you are pessimistic regarding the negotiation?

LEG. O'LEARY:

No. I did not indicate that I was pessimistic.

LEG. VILORIA • FISHER:

Cameron had said, you know, that I was being overly optimistic. I'm just trying to get a handle on this.

LEG. O'LEARY:

Let me just say that the ball is in the court of the County Executive and his representatives with respect to the make up of the committee.

LEG. VILORIA • FISHER:

Okay. Thank you.

MR. DALY:

Thank you.

CHAIRMAN ALDEN:

Any other questions? All right. We have two public hearings, and I'm going to ask the Clerk's Office, where all the publishings done and do you have the procedure documentation for 1934 and 1981?

MS. JULIUS:

Yes, Mr. Chairman, they're properly filed.

CHAIRMAN ALDEN:

Thank you very much.

CHAIRMAN ALDEN:

So we have a public hearing right now for **1934 • 2004, a Local Law to streamline conveyance of real property transactions**. Legislator Lindsay has introduced that.

I don't have any cards. Does anybody want to speak at this public hearing on this matter? Seeing no one, I'll entertain a motion from Legislator Lindsay.

LEG. LINDSAY:

Motion.

CHAIRMAN ALDEN:

Motion to close, seconded by myself. All those in favor? Opposed? The public hearing on 1934 is **CLOSED. (VOTE:6 • 0 • 0 • 1).**
(Not present: Legis. Mystal).

1981 • 2004, a Local Law to update Suffolk County Living Wage Law introduced by Legislator Bishop. I don't have any cards on this? Is there anyone that wants to address the committee in the public hearing at this point? If you want to wait a couple of minutes, we'll take it up in the committee.

LEG. VILORIA • FISHER:

Motion to close.

CHAIRMAN ALDEN:

Motion to close by Legislator Viloria • Fisher, seconded by myself. All those in favor? Opposed? 1981, the public hearing is **CLOSED** on that. **(VOTE:6 • 0 • 0 • 1) (Not present: Legis. Mystal)**

I want to make everyone aware of one piece of legislation that's going to be introduced at the next General Session. It's by Legislator Binder. It's authorizing certain technical corrections to Resolution 54 • 2004. He had provided contingency funding for a not for profit community based agency. That agency actually moved to Nassau County. So he is changing the funding source from that agency to two agencies that are in Suffolk County. But I just wanted to make you aware, because I will support it. It's going to be 2077. I will support a discharge motion on that piece of legislation when he lays it on the table at the next meeting. If you want to see a copy of it, I have a proposed copy. We're not voting on it here, I just wanted to make you aware that at the next •• at the next full session we will be going after that.

TABLED RESOLUTIONS

CHAIRMAN ALDEN:

We're going to take up tabled resolutions. The two public hearings are closed.

1277 • 2004. Adopting Local Law No. • 2004, a Local Law amending Local Law No. 2 • 1999, to expand the Home Improvement Contracting Licensing Law to add new home construction. (Viloria • Fisher)

LEG. VILORIA • FISHER:

What I'm going to do is ••

CHAIRMAN ALDEN:

I'm sorry. Charlie just talked to me. He had to go back over to the office. I think that that got hit by the Sixth Month Rule.

LEG. VILORIA • FISHER:

Actually, I was going to say that I am withdrawing it, because I don't have the time to really make the changes that I need. I need to work with Charlie, so I'll reintroduce it with the changes as a new bill.

CHAIRMAN ALDEN:

Just put it in, then we'll expedite it, because we have all the information and documentation from the hearings on it. Okay. We're skipping 1350.

1465 • 2004. Establishing policy on use of County Clerk's Office for title examination purposes pending County Center renovation. (CARACCILO)

LEG. VILORIA • FISHER:

Can you go back to 1350 and say why we're skipping it.

CHAIRMAN ALDEN:

We're skipping over it, because Mr. Russo actually indicated to me that he was coming down, but his attorney was on trial this morning, so I told them if they could make it here by 12 o'clock, that we would take it up. And we're probably still going to be here by 12 o'clock.

LEG. VILORIA • FISHER:

Talk about being a pessimist, you thought we would still be here by 12 o'clock.

CHAIRMAN ALDEN:

No. No. I did that based upon past practices of the committee.

LEG. VILORIA • FISHER:

It was a joke.

CHAIRMAN ALDEN:

I know. I know it is. It is a joke. We're here sometimes until sometimes one, two three o'clock. So that's why I gave him that optimistic forecast of 12 o'clock, we'd still be here.

Okay, so 1465. What's your pleasure with this?

LEG. VILORIA • FISHER:

Motion to table.

CHAIRMAN ALDEN:

Motion to table by Legislator Viloria•Fisher, second by myself. All those in favor? Opposed?

Tabled. (VOTE:6•0•0•1) (Not present: Legis. Mystal).

1519•2004. Adopting Local Law No. • 2004,a Local Law creating Geographic Information System Committee. (COUNTY EXEC).

CHAIRMAN ALDEN:

Motion to table by myself, seconded by Legislator O'Leary.

LEG. VILORIA • FISHER:

On the motion.

CHAIRMAN ALDEN:

On the motion.

LEG. VILORIA • FISHER:

I really truly hope that we're making an effort not to place undue stress on the passage of this particular legislation. Just on good government issues, it's so important to have this. You know, there are other municipalities that have shown how important it is to have these systems.

CHAIRMAN ALDEN:

We all agree.

LEG. VILORIA • FISHER:

I really want to see this happen.

CHAIRMAN ALDEN:

Legislator O'Leary is working really hard on it. And I believe Ben Zwirn is working very hard on it from the County Executive's side. So I hope that within the near future we will get a meeting

of the minds. So there's a motion to table and a second.

LEG. VILORIA•FISHER:

I'm opposing the motion to table.

CHAIRMAN ALDEN:

Okay. Opposed, Legislator Viloria•Fisher. That's **TABLED. (VOTE:5•1•0•1) (Not present: Legis. Mystal).**

1580•2004. Adopting Local Law No. • 2004,a Local Law to amend Financial Disclosure Law. (CARACCIOLO)

CHAIRMAN ALDEN:

Motion to table by Legislator O'Leary, seconded by Legislator Nowick. All those in favor? Opposed? **Tabled. (VOTE:6•0•0•1) (Not present: Legis. Mystal).**

1629•2004. Adopting Local Law No. • 2004,a Local Law to extend and further strengthen the reporting for the anti•nepotism statute. (CARACCIOLO)

CHAIRMAN ALDEN:

Same motion, same second, same vote. **TABLED. (VOTE:6•0•0•1) (Not present: Legis. Mystal).**

1675•2004. Adopting Local Law No. • 2004,a Local Law to extend the County Code of Ethics to all outside business activities.

LEG. VILORIA•FISHER:

Motion to table.

CHAIRMAN ALDEN:

Same motion, same second, same vote. **TABLED. (VOTE:6•0•0•1) (Not present: Legis. Mystal).**

1687•2004. Adopting Local Law No. • 2004,a Charter Law to clarify delegation of responsibility during absence or disability of County Executive. (BINDER)

LEG. VILORIA•FISHER:

Motion to table.

LEG. LINDSAY:

Second.

CHAIRMAN ALDEN:

Motion to table by Legislator Viloría•Fisher, seconded by Legislator Lindsay. All those in favor? Opposed? I'm opposed. It's **TABLED. (VOTE:5•1•0•1) (Opposed; Legis Alden) (Not present: Legis. Mystal).**

1694•2004. Authorize the commencement of Eminent Domain Proceedings for Mediavilla Property, Town of Huntington. (BINDER)

LEG. VILORIA•FISHER:

Motion to table.

CHAIRMAN ALDEN:

That's what Judy White is here for, right? Motion by table by Legislator Viloría•Fisher, seconded by Legislator Lindsay. Any discussion? I think we should just put on the record what •• what does this resolution actually call for •• it's a purpose ••

LEG. VILORIA•FISHER:

A lot of money it will call for.

MS. KNAPP:

It states in its whereas clauses that the property is adjacent to an existing •• I believe it's a wildlife refuge. And it has certain bird and animal species that are unique to the area. I believe that the purpose of the acquisition would be environmental.

CHAIRMAN ALDEN:

Is there a development pressure on the property at this point? Judy, come on up. Sorry.

MS. WHITE:

Good morning, Mr. Chairman. My name is Judy White. I work for CJ II Communication

Strategies, and I'm here representing Mark Mediavilla. This particular piece of property is approximately 33 acres in the Town of Huntington. It is next door to Berkley Jackson County Park. The property abuts Jericho Turnpike and Manor Road. Some of you may know it as the property where that sandpits are on Jericho Turnpike, the sandpits. That's the property. It has been owned by the Mediavilla Family for approximately four generations. And Mr. Mediavilla has plans before the Town of Huntington to develop this particular piece of property as a town center.

CHAIRMAN ALDEN:

Which would be how many houses or what type of ••

MS. WHITE:

It's developed as a Smart Growth piece of property, very similar to some of the areas in Florida, in Annapolis, Maryland. It would be a combination of a main street with retail, apartments, theater, family entertainment, a commercial area, and then behind the property, there is •• there are apartments.

CHAIRMAN ALDEN:

I'll recognize Legislator Losquadro.

LEG. LOSQUADRO:

When you say "town center," I know we just received a proposal for a large piece of property in Shoreham out where I live that a developer is proposing the same sort of thing. And generally when you talk about those type of areas, you talk about seeking a substantial change of zone from the town, because you are talking •• generally to make this type of venture profitable for the owner, they seek ultra high density, you know, apartments, multi•family town homes, single•family homes, a whole spread of use. That is a substantial change I'm assuming from what the current zoning is. Has any sort of plan been filed with the Town of Huntington as of yet, or is this just a conceptual idea.

MS. WHITE:

No. Actually, the plan was filed two years ago. The Town of Huntington came back to the developer and asked for very specific changes. Those changes have been made. The revised plan and the draft environmental impact statement are actually in their final read through right now and will be resubmitted to the Town of Huntington probably within the next two to three

weeks.

LEG. LOSQUADRO:

So if the plan is in that stage, you can give us a number as to how many units they're looking to construct there?

MS. WHITE:

Yes. One hundred and sixty.

LEG. LOSQUADRO:

One hundred•sixty units total. That would be total within the different types of uses, you know, be it ••

MS. WHITE:

That's not the total square footage of the retail, and I'm sorry, I don't have the total square footage.

LEG. LOSQUADRO:

That's fine. But it would be 160 residential, is that what you said?

MS. WHITE:

One hundred •• there would be 160 •• the apartments are a combination, okay? They're a combination of what we call the great houses, which look like a house, but they actually have apartments in them, and then the more traditional townhouses. There are 160 of the units in the great houses and the townhouses, then above their stores, there would be another •• I believe there's another 130 units above the stores. The zoning that •• the change of zone that they're looking for is in conformity with the R3M zoning in the Town of Huntington, so that the units would not be larger than the R3M zoning that currently exists in the Town of Huntington.

LEG. LOSQUADRO:

How many apartments in each of these great houses?

MS. WHITE:

I believe between eight and ten apartments depending on the number of bedrooms in the

apartments. The breakdown for the bedroom specifications are •• there will be 45% one bedrooms, there's 40% two bedrooms and then the rest will be three bedrooms •• no, I'm sorry about that. There's 50% one bedrooms, there's 5% three bedrooms.

LEG. LOSQUADRO:

So eight to ten and 160 units, you're going to be looking at 1500 to 2000 individual units? I'm sorry. Well, 160 units you said with eight to ten apartments per unit or eight to ten apartments total?

MS. WHITE:

No. No. No.

LEG. LOSQUADRO:

I'm not following here.

MS. WHITE:

I'm sorry. The great houses can hold ••

LEG. LOSQUADRO:

You said there would be 160 of those.

MS. WHITE:

No. No.

LEG. LOSQUADRO:

How many of these great houses?

MS. WHITE:

No. There would be 160 apartments total. I'm sorry.

LEG. LOSQUADRO:

You know, we're facing a situation, like I said, out in my district where someone is proposing 1000 units. So this is not •• believe me, it's not out of the question. So I'm trying to get a read on what exactly is being proposed.

MS. WHITE:

No. The way it was developed was they took a look at town centers that have worked throughout the United States.

LEG. LOSQUADRO:

I've heard those presentations. So you're saying 160 plus another 130, 290 was the first number, but then you said eight to ten, so that confused me. So about 290 approximately then?

MS. WHITE:

Yes. And there are eight to ten individual apartments within the great houses.

LEG. LOSQUADRO:

Okay. Okay. So then you would divide that out and you figure out how many great houses there are. All right. So maybe close to 300 units you're talking about?

MS. WHITE:

Yes.

LEG. LINDSAY:

All right. Thank you.

CHAIRMAN ALDEN:

Then we have Legislator O'Leary, then Legislator Vilorio•Fisher.

LEG. O'LEARY:

Hi. How are you?

MS. WHITE:

Fine. Thank you.

LEG. O'LEARY:

With the commencement of the Eminent Domain proceedings, there's some takings of lands. What current properties are targeted for the takings?

MS. WHITE:

It's this particular piece of property.

LEG. O'LEARY:

The 33 acres?

MS. WHITE:

The 33 acres, yes.

LEG. O'LEARY:

Okay. Mr. Mediavilla, as you said, is this the sandpit properties that we are talking about specifically?

MS. WHITE:

Yes, it is. Yes, it is.

LEG. O'LEARY:

It's those properties that we're talking about?

MS. WHITE:

Yes.

LEG. O'LEARY:

Thank you.

MS. WHITE:

The sandpits are the front portion of the property.

CHAIRMAN ALDEN:

Legislator Viloría•Fisher.

LEG. VILORIA•FISHER:

Thanks for coming down.

MS. WHITE:

You're welcome.

LEG. VILORIA • FISHER:

Good to see you. I have two questions. Will there about any plan to include any work force housing in this •• in these plans?

MS. WHITE:

Yes. Actually, the Town of Huntington has a 20% rule. And so 20% of the apartments will be work force housing, will be affordable housing, yes, absolutely.

LEG. VILORIA • FISHER:

Which really underscores the fact that this is something where this is the purview of the town, zoning, and approvals, and you have your permits already before the town.

MS. WHITE:

We don't have the permits yet.

LEG. VILORIA • FISHER:

Not the permits.

MS. WHITE:

But the process.

LEG. VILORIA • FISHER:

But the process has begun with the Town of Huntington.

MS. WHITE:

Yes, the process has begun.

LEG. VILORIA • FISHER:

And so Huntington Town is doing a good job making sure that 20% is set aside.

MS. WHITE:

Yes. They actually have legislation on the books which requires 20% to be ••

LEG. VILORIA • FISHER:

Which school district would this be?

MS. WHITE:

It's in the Elwood School District.

LEG. VILORIA • FISHER:

Elwood. Okay. All right. And I just want to ask again, the breakdown, most of the apartments are one bedroom?

MS. WHITE:

Yes.

LEG. VILORIA • FISHER:

Okay. Which would mean that it wouldn't be as big of an impact on the school district if you're talking about mostly apartments.

MS. WHITE:

This has been an issue that come up repeatedly with regard to the issue of apartments verses single •• family homes. And in fact, the National Builders Institute just completed a national study, and from the information that we have from the various apartment complexes that have been developed both in Nassau and Suffolk County, and the traditional studies that BOCES uses; the Rutgers Studies, with regard to population of students coming out of apartments, we have taken a look at all of them, both private studies and some of the public studies that have been done, if this property were to be developed in single•family homes ••

LEG. VILORIA • FISHER:

The impact would be tremendous.

MS. WHITE:

We know statistically that the impact would be much greater than it were if it were developed into apartments, because someone who buys a single•family home, which nowadays is

generally four or five bedrooms, always has more children than individuals who are moving into either single bedroom or two bedroom apartments. Basically, the apartments are for the younger families, they're for the seniors and they're for the young married couples. It's the starter homes that many of us started in in Suffolk County a long time ago, which we can no longer afford anymore, because there aren't any started homes out there.

LEG. VILORIA • FISHER:

I've read some of that data, Judy. And by the way, the LIA is also doing a study of the impact on school districts and what type of homes create what type of impact. So, yeah, all of these things corroborate what you just said.

MS. WHITE:

Yes.

LEG. VILORIA • FISHER:

And what I came to understand. Would they be rentals or co•ops, condos, what kind of ••

MS. WHITE:

They would be rentals.

LEG. VILORIA • FISHER:

All.

MS. WHITE:

(Shaking head yes).

LEG. VILORIA • FISHER:

Okay. Thank you, Judy.

CHAIRMAN ALDEN:

Legislator Lindsay.

LEG. LINDSAY:

Really a rhetorical question that I have to ask. Does the owner have any interest in selling the

property to the County.

MS. WHITE:

No, he does not.

LEG. LINDSAY:

And just out of curiosity, do you have any idea what endangered species are in these sand cliffs?

MS. WHITE:

I have to be honest with you. We have had two different environmental groups and •• come in to take a look at the property, in addition to which, we have been in contact with New York's National Heritage Program. To our knowledge, there are no endangered species, either flora or fauna. They have said that they have •• it's the proper nesting environment for the great horned owl, but no one has ever seen one.

LEG. VILORIA • FISHER:

I am sorry. Mr. Chair.

CHAIRMAN ALDEN:

Legislator Viloria • Fisher.

LEG. VILORIA • FISHER:

With that question from Legislator Lindsay, I went back to look at the resolution, and it does list a series of species, But it was the third whereas that made me curious. Now, it says 29 acres of mature forest. So it's four acres of sandpit and 29 acres of forest?

MS. WHITE:

There is no old growth forest on the property. It is second growth. Sometimes it is even younger than that, because •• some of you may remember the history in the Legislature of Berkley Jackson County Park, this is a County park that is landlocked. There is no public access to Berkley Jackson County Park unless you park on Jericho Turnpike and walk on a sidewalk into the park, because you can't park on Manor Road.

So we were very careful when we started this whole process of taking a look at whatever flora

and fauna, which is why we contacted the National Heritage Program. We brought in two different environmental groups to take a look at the land, the trees. A lot of the land had been cut originally because it was farmed. So the growth that is there is not old growth forest.

LEG. VILORIA • FISHER:

Thank you, Judy.

CHAIRMAN ALDEN:

I just had a couple of questions. Is the owner of the property going to develop it himself, or is he under contract with someone else to develop it?

MS. WHITE:

He is not under contract to develop •• with anyone at this point. The family has run an orchard on the property for •• not on this particular piece of property, but in the Town of Huntington for many years. He is not a developer. He is going to be contracting with a developer to build it.

CHAIRMAN ALDEN:

Okay. And as far as sewage, are they planning on hooking up to an existing sewage plant or Southwest?

MS. WHITE:

No. There will be an on•site waste water treatment facility.

CHAIRMAN ALDEN:

Okay. Any other questions? What's your pleasure with this resolution.

LEG. VILORIA • FISHER:

Motion to table.

CHAIRMAN ALDEN:

We have a motion to table, we have a second. All those in favor? Opposed?

LEG. O'LEARY:

Opposed.

CHAIRMAN ALDEN:

Legislator O'Leary is opposed to tabling. It's **TABLED. (VOTE:5 • 1 • 0 • 1) (Opposed; Legis.**

O'Leary) (Not present: Legis. Mystal)

1737•2004. Adopting Local Law No. • 2004,a Local Law to amend Local Law No. 18 •1994, to strengthen disclosure requirement for real estate transactions. (SCHNEIDERMAN)

CHAIRMAN ALDEN:

Just an explanation, Legislative Counsel.

MS. KNAPP:

1737 is similar to •• yes. This would require that on our current disclosure statement that we add the names and addresses of all commission sales agents, attorneys and any other party with a direct financial interest in the consummation of the real estate transaction. And then it amends the follow section to require commission sales agents and any other party with a direct financial interest. It basically adds more parties than we currently have to the disclosure requirements.

CHAIRMAN ALDEN:

Okay. We have Ben Zwirn here and we also have Lynne Bizzarro from the County Attorney's Office. Do you have a position on this one.

MS. BIZZARRO:

Our office had reached out to Legislator Schneiderman with some recommendations on some of the wording, and he took those recommendations, so it looks fine to us.

CHAIRMAN ALDEN:

Ben, okay over there?

MR. ZWIRN:

Yes.

CHAIRMAN ALDEN:

All right. I'll make a motion to approve, seconded by Legislator O'Leary. All those in favor? Opposed? 1737 is **approved. (VOTE:6•0•0•1) (Not present: Legis. Mystal).**

1802 • 2004. Promoting integrity of appointments to Boards and Commissions in Suffolk County. (COOPER)

CHAIRMAN ALDEN:

Explanation, please.

MS. KNAPP:

This would circumscribe the ability of any appointing authority in the County to appoint an individual to a board or a commission who had either been convicted or pled guilty to either a felony or a misdemeanor for a period of ten years prior to their appointment.

CHAIRMAN ALDEN:

How about if they're fully rehabbed? You know, they did their eight or ten years in jail for, you know, accepting bribes or corruption, you know, bring them back. All right. I'll entertain a motion. Motion to approve by myself, seconded by Legislator Nowick. All those in favor?

LEG. LINDSAY:

I'm opposed.

LEG. VILORIA • FISHER:

I'm opposed too. I'll make a motion to table.

LEG. LINDSAY:

Second.

CHAIRMAN ALDEN:

The tabling motion takes precedence. Okay. We have a motion to table by Legislator Vilorina • Fisher, seconded by Legislator Lindsay. All those in favor? Opposed? I'm opposed to tabling it.

LEG. NOWICK:

I'm opposed to tabling.

CHAIRMAN ALDEN:

So there's two opposed. **(VOTE:4 • 2 • 0 • 1) (Opposed; Legis. Alden and Nowick) (Not present: Legis. Mystal).**

LEG. O'LEARY:

I'm troubled by the amount of time here, the ten years. It's •• I don't know what the sponsor's intent is with respect to filing this resolution. Obviously, it's to •• to make certain that anyone convicted of a crime is not appointed to a board or a commission within Suffolk County. I mean, frankly, if he's going to go to that extent, he should if you're committed of a crime, you will never be appointed to a board or a commission in Suffolk County. You know, why the ten year provision? So I'm in favor of tabling this.

CHAIRMAN ALDEN:

So it boils down to Legislator Losquadro.

LEG. LINDSAY:

Could I comment, Mr. Chairman?

CHAIRMAN ALDEN:

Before Losquadro casts his vote, Legislator Lindsay.

LEG. LINDSAY:

What bothers me about this piece of legislation is the assumption that we will appoint a convicted felon to a board or the County Executive will make an appointment. I mean, I don't know of any •• any time that this has happened before. I can't think of any instance off the top of my head, so why the need for this legislation?

CHAIRMAN ALDEN:

Legislator Losquadro.

LEG. LOSQUADRO:

I had not voiced any opposition to tabling, so I am in favor of tabling.

CHAIRMAN ALDEN:

Okay. Stands tabled.

1864•2004. Adopting Local Law No. • 2004, a Charter Law to mitigate County liability by expanding prior written notice of defective condition requirements. (COUNTY EXEC)

LEG. VILORIA•FISHER:

Motion to approve.

CHAIRMAN ALDEN:

Motion to approve by Legislator Vilorina•Fisher.

LEG. NOWICK:

Motion to table.

CHAIRMAN ALDEN:

Second by myself to approve. But motion to table by Legislator Nowick.

LEG. NOWICK:

If you feel that strongly on the motion to approve.

CHAIRMAN ALDEN:

I don't feel that strongly about it. On the motion to approve, this actually will save the County some money. And Lynne, I'm sorry to keep running you back and forth. Come on up for a second, because you do have a position on this, don't you? You're in favor of this, I believe?

MS. BIZZARRO:

Yes, we are in favor of it. The County Attorney's Office is in favor of it. Christine Malafi basically put the bill together. Yes, we looking at it as seeing a •• it's a money saver for the County ultimately. It's not going to, you know, stop all lawsuits, but it's going to be on par with what most, if not all of the other municipalities across Long Island, have as far as their private notice •• Prior Written Notice Law. I know the Town of Babylon has a stronger law than the County, the Town of Hempstead. I'm not sure about the County of Suffolk, but just all throughout Long Island, they have much stronger private notice laws than the County does.

CHAIRMAN ALDEN:

Legislator Lindsay.

LEG. LINDSAY:

This basically will address the trip and fall types of lawsuits?

MS. BIZZARRO:

Correct.

LEG. LINDSAY:

Okay. And will it limit •• it will limit a citizen's right to sue the government if there is •• if they're found at fault or the sidewalk's busted up or something?

MS. BIZZARRO:

It limits it to an extent. It basically broadens the arena of what •• the County needs to first get written notice of a problem existing before there is a cause of action against the County of Suffolk. So right now, the arena is very small. You only have to have prior written notice on a few occasions. It just broadens that arena so that if, you know, someone falls on a pot hole in the street, and the County never knew about it, well, then they wouldn't have notice, they couldn't have fixed it. Yes, that person is, like, the first person to slip on it and will not, you know, get any money as a result of that, so technically it would limit that person.

But it also will do something •• it will heighten everyone's knowledge that, you know, we need the prior written notice. I know that in Queens County they have the Big Apple Map. And what it has done is because of their Prior Written Notice Law, a corporation got together and they go out now and they find pot holes, they notify the county in writing of those pot holes, and the county goes out and fixes the pot holes. So it's good in terms of preventing accidents down the road because, you know, all will be aware now that there's more •• you know, there's a bigger arena of what needs to have a prior notice for someone to sue the county on. So we're hoping that's what it will stir up, and we think that it will.

CHAIRMAN ALDEN:

Legislator Viloría•Fisher.

LEG. VILORIA•FISHER:

Actually, Mr. Chair, that was my comment, that also it will impact public safety, that once we have this on the books and people are aware of it, it will hold the County's feet to fire to go out there and do the maintenance.

MS. BIZZARRO:

Right. Right. We will be forced to go out there and do it. Right now we don't have to have

prior written notice, so I bet you we're not getting notifications of many things. And if it's just a phone call, someone may hang up the phone and forget to contact DPW to get somebody out there. So we see this as a good exercise. There may be a little down time initially, but I think ultimately down the road, we will be aware of more problems out there, we will be notified of them, and then, hence, we will be able go out and be proactive and fix what's broken.

CHAIRMAN ALDEN:

Legislator O'Leary.

LEG. O'LEARY:

Yeah. I'm a little confused as to the time constraints placed upon the citizens to file an action against the County in the event that he or she's injured as a result of a fall in a pot hole.

MS. BIZZARRO:

That doesn't change.

LEG. O'LEARY:

It doesn't?

MS. BIZZARRO:

No, it does not effect that.

LEG. O'LEARY:

Because there's some 30, 60 day mention here in the resolution.

MS. BIZZARRO:

I believe that that goes to how much before the accident the County was •• was notified in writing of the problem. It doesn't go to the actual filing of the lawsuit. It's still a 90 day filing requirement on the notice of claim, and I believe it's a year and 30 days or a year and 90 days on filing a lawsuit.

LEG. O'LEARY:

My only other question is absent the prior written notification, wouldn't that not strengthen the individual's case against the County if the prior written notification does not occur?

MS. BIZZARRO:

I'm sorry. Can you repeat that?

LEG. O'LEARY:

Absent the prior written notification that's required under this particular resolution, would that not strengthen the plaintiff's case with respect to any action?

MS. BIZZARRO:

Correct. Yes, it does.

LEG. O'LEARY:

So then the burden is placed on the municipality then to correct the faults.

MS. BIZZARRO:

Right. They are being notified of these problems. They have to get out there and fix them. If they don't, and they're on notice, they have been given the prior notice, they're going to be on the hook then.

LEG. O'LEARY:

Okay.

CHAIRMAN ALDEN:

I just have a couple of questions just to clarify some things. If somebody gets injured, we're still going to pay for their injury whether we've had notice or not. This is a negligence theory, right, where Suffolk County knew about a dangerous situation, didn't do anything about it, now somebody gets injured and there's more images basically; is that correct or is it incorrect? If somebody goes out there and say they didn't know about a pot hole, but we didn't know about it either, if they get hurt, we still have to pay for their damages.

MS. BIZZARRO:

Only if we were sent prior written notice about that and we knew about it in advance, and we failed to correct the defective condition.

CHAIRMAN ALDEN:

Okay. So there's going to be some people that actually •• and I 'm not going to say fall through the cracks, but there are some people that are going to get injured, have personal

injury, that are not going to be able to collect over it.

LEG. VILORIA • FISHER:

They'll sue anyway.

CHAIRMAN ALDEN:

Anybody can sue. This is America, and that's one of the beautiful things about it. That's why I went to law school.

MS. BIZZARRO:

Right. They still have the option •• they can still bring an action. And if they can prove that the County somehow was involved in creating the hazard or somehow knew about it and did not fix it, notwithstanding no prior written notice, there's still doors that they can get through.

CHAIRMAN ALDEN:

Okay. Legislators Losquadro.

LEG. LOSQUADRO:

We've heard about personal injury, but what about property damage? Say an insurance company wants to subrogate against the County for damage to a vehicle that occurred from a large pot hole on a County Road, where does that stand right now and how would this change it? If they struck that pot hole and caused damage to the car, insurance company tries to subrogate against Suffolk County, if it was one vehicle right now, only one vehicle struck that pot hole, would we •• would we pay for those property damages or would it have to be •• you know, there would have to be several claims to show that we •• you know, we knew it existed?

MS. BIZZARRO:

Right. If we had prior written notice of it, which could mean a prior claim, because that would be prior •• that would constitute prior written notice.

LEG. LOSQUADRO:

What's our policy right now with that?

MS. BIZZARRO:

On the pot holes?

LEG. LOSQUADRO:

Would we pay that damage if an insurance company filed ••

MS. BIZZARRO:

If they subrogated and if we had prior written notice, yes, we would pay that.

LEG. LOSQUADRO:

Even now we require prior written notice for that.

MS. BIZZARRO:

Yeah, we require prior written notice in certain events.

LEG. LOSQUADRO:

That is one of the areas.

MS. BIZZARRO:

Yes. I believe pot holes is on there. I'm sorry, I don't have the law in front of me.

LEG. LOSQUADRO:

That's fine.

MS. BIZZARRO:

I know we've expanded it. I don't •• sidewalks was on there too. But it put in a lot of other items.

LEG. LOSQUADRO:

Other items added?

MS. BIZZARRO:

Correct.

LEG. LOSQUADRO:

All right. Thank you.

CHAIRMAN ALDEN:

All right. So 1864, I have a motion to approve, I have a second. All those in favor? Opposed? 1864 is **approved. (VOTE:6•0•0•1) (Not present: Legis. Mystal).**

CHAIRMAN ALDEN:

1880, directing the County Comptroller and the County Treasurer to issue longevity payments. (ALDEN)

MR. TEMPERA:

Good morning. Jeff Tempera, Director of Labor Relations. I just wanted to speak for a moment on Resolution 1880.

CHAIRMAN ALDEN:

First, we will give the members of the committee a brief overview of what it is. Mea, can you just •• I filed the resolution.

MS. KNAPP:

This resolution sponsored by Legislator Alden and Legislator Foley concerns five current employees of the Legislature who have not received longevity payments due to an error by a Clerk, and I see that Henry Barton has joined us in case there are any specific questions. I think this is something that caused a tremendous amount of conversation here in the Legislature, because I think we are all, you know, very sorry that an error had been made. It certainly was inadvertent.

Somewhere in 1997, a directive was issued by the County Executive that there had been a change to the AME contract that allowed people who had had a break in service to become eligible for longevity payments. And the Clerk who received the notice thought that it was just a notification to tell her that there had been a changed policy, and she filed it in a file and took no action.

Had she read it a little more carefully, she would have seen that it required her as the payroll clerk to notify either the County Executive or the Office of Labor Relations of those people who were affected by the change. She failed to make that notification, and as a result five employees of the County Legislature have not received longevity payments that apparently all

other employees who are similarly situated in this County received. This only came to light, and now I'm probably going to defer to Henry as to how she discovered it.

MR. BARTON:

It was actually brought to our attention ••

CHAIRMAN ALDEN:

Henry, for the sake of the Clerk's Office, please identify yourself.

MR. BARTON:

It was brought to our attention by the payroll clerk at the County Executive's Office when one of the employees who had been working in the Legislature transferred over earlier this year, that there was an error in the calculation, and it referred back to prior service, the issue distinguishing a start date from a longevity, that we have not given credit for some prior service that had actually been earned.

CHAIRMAN ALDEN:

Thank you. Jeff, you wanted to comment against this resolution.

MR. TEMPERA:

I wasn't going to characterize my comments, but yes. I really believe the resolution as currently written violates the Taylor Law. There is at least one individual contained within the resolution that's an AME employee. The AME contract makes certain provisions for employees to contest violations of the contract. The Taylor Law recognizes that the union is the exclusive bargaining agent for these individuals. And for the Legislature to take unilateral action to change the term of condition of employment of a unionized employee has been found time and time again by the Taylor Law to be a violation ••

CHAIRMAN ALDEN:

Okay. So you think procedurally there's a problem here. But do you recognize that people weren't paid their proper money, or is that a question in your mind also?

MR. TEMPERA:

No. Let's put it this way. I think the onus was on the individuals to come forward, and that's where I disagree with the background. What was supposed to have occurred, the notice from Labor Relations to the payroll representatives, had a specific letter attached to it that was to be

given to all employees. They had the obligation to notify the payroll rep or Labor Relations that they had prior credit.

CHAIRMAN ALDEN:

Okay. But now you heard a little bit of testimony here that this notice wasn't given to the employees, so where do we stand •• knowing that they haven't gotten notice that they were entitled to things that other people were getting, now where do we stand on that?

MR. TEMPERA:

Again, where we stand today is that ••

CHAIRMAN ALDEN:

Answer that question.

MR. TEMPERA:

My understanding is they've received credit for the current year longevity credit going all the way back. So the payments for 2004 ••

CHAIRMAN ALDEN:

Do you contest the statement of fact or it's a question really, I guess, of fact, that they received notice, or do you dispute that, or do you just take that as a given that now hearing Henry's testimony that they were never given notice, where do you stand on just that specific issue?

MR. TEMPERA:

I can't even comment on that, because I think that's really within Barbara Thomas and what Barbara did or didn't do in terms of passing out notice to the Legislative employees. I can comment only about the retroactivity, and that's really what I have objected to, because Mea, I think, has talked about these are the only employees that are affected by it. I don't know that for a fact. I don't know how many other AME employees •• we've got over 12,000 employees in the County, I don't know how many other AME are employees similarly situated. There is a provision in the AME contract for an individual to complain about it within 60 days of the date it occurred or the date it should have been known to that individual. I have communicated to Cheryl Felice. The union is in the process of filing a grievance with regards to the individual. I think it would be improper for the Legislature to act while there is a pending grievance on a union employee that ••

CHAIRMAN ALDEN:

A grievance that does what, that asks for the longevity pay?

MR. TEMPERA:

Yes.

CHAIRMAN ALDEN:

And that's for one out of the •• how many did we have?

MR. TEMPERA:

I think there are five employees of the Legislature.

CHAIRMAN ALDEN:

So one of them is going to be covered by an AME grievance, the other four are left to not get their money?

MR. TEMPERA:

No. Resolution 659 of 88, which is the resolution that grants the benefits to the management employees, that has been extended, also has a specific clause dealing with longevity, treats management in a similar manner with longevity as the AME employees. And clearly, if the AME employee was successful under their grievance, I think that's something that management would have to •• or the County Exec's Office, Labor Relations, would have to look at to apply to the management employees similarly situated within the Legislature. That •• clearly within Resolution 659 of 88, the benefits of the AME contract, specifically longevity are ••

CHAIRMAN ALDEN:

You know, your argument is going to look really stupid in an equity court. But if you want to handle it on a procedural basis, then you're making it an argument that, you know, it's up to us whether we buy it or not as, you know, depends on which action we take on this resolution. But if you go to an equity court, you lost already.

MR. TEMPERA:

Well, I don't have to go before an equity court.

CHAIRMAN ALDEN:

You know what? In America, though, there's a sense of justice and equality and things like

that, and that's what I'm saying. You know, maybe sometimes that cuts through, you know, like, if you want to find a technicality or if you want hang your hat on a technicality which would be the notice and their ability to appeal that in a certain period of time. Do you have anything else further?

MR. TEMPERA:

Other than there is a due process proceeding built into the AME collective bargaining agreement, which we are following.

CHAIRMAN ALDEN:

For one person. So the other people are pretty much out in the cold on that as you said before.

MR. TEMPERA:

And I said that you would apply the resolution •• the outcome with AME to the other individuals.

CHAIRMAN ALDEN:

Legislator Lindsay.

LEG. LINDSAY:

Jeff, your position is if we pass this resolution it would be a violation of the Taylor Law?

MR. TEMPERA:

Absolutely. There's absolutely no question in my mind. It's been reviewed by outside Labor Counsel who concurs. The Legislature has acted in a similar manner at least four other occasions in the past that have been found to be a violation of the Taylor Law.

LEG. LINDSAY:

I'm certainly not an expert on the Taylor Law, but AME certainly is the representative for, you know, the bargaining unit. And you are the representative for management, and we are part of that management team along with the County Executive. And if we chose to resolve a situation before it becomes a grievance, I don't see where there's a violation.

MR. TEMPERA:

Well, it is the unilaterally granting of a term or condition to the union where the union is the

sole determinant by filing a grievance that causes the problem under the Taylor Law.

LEG. LINDSAY:

Have you ever resolved a grievance before it went to a hearing?

MR. TEMPERA:

Absolutely. With the union. And that's where it becomes mutual.

LEG. LINDSAY:

So we have a grievance filed now.

MR. TEMPERA:

They haven't filed as of yet.

LEG. LINDSAY:

Part of the management team and the Legislature want to resolve it before it goes through the procedure.

MR. TEMPERA:

Well, the Taylor Law recognizes the County Executive as the chief negotiator. The Legislature's role with regards to collective bargaining is to approve those items that have a cost impact. Clearly, this is not something that the County Executive's Office with the union is looking at from an adversarial standpoint. There is •• there is an issue as to retroactivity. I believe that is the only issue that we are talking about here. Going back seven years to grant longevity credit where employees either should have known about it or were aware of it and how that impacts other employees across the County in any number of different issues really is what the question is here.

LEG. LINDSAY:

But you don't know what that impact is?

MR. TEMPERA:

It comes up all the time on a retroactivity with any number of grievances in the County. We'll argue it each and every time where we think there's merit that the individuals either knew or should have known about the clause in the contract, and we hold them to a 60 day limit which

is what's called for in the contract.

CHAIRMAN ALDEN:

Legislator O'Leary •• I'm sorry, Legislator Viloría•Fisher, then Legislator O'Leary.

LEG. VILORIA•FISHER:

Okay. Jeff, it's been characterized these employees were not given the information and were not notified appropriately by the payroll representative. But what you are saying is that if we were to pass this legislation, it would violate the Taylor Law because we would be outside of the negotiation arena, we would not be in •• it would be a unilateral decision on the part of the management team.

MR. TEMPERA:

Well, it would be a unilateral action by the Legislature, correct.

LEG. VILORIA•FISHER:

Unilateral action by the Legislature. But we are a part of the management team, but it's not in a negotiation arena, we're not having a dialog with the labor representatives, with AME? We're not involved in a dialog, it's unilateral, it's one sided?

MR. TEMPERA:

Correct.

LEG. VILORIA•FISHER:

The grievance has not yet been filed? I thought you said they had filed it.

CHAIRMAN ALDEN:

No. It has not yet been filed. I've received correspondence from Cheryl requesting information about the grievance in anticipation of filing a grievance.

LEG. VILORIA•FISHER:

Do you know why the grievance is being considered only for one of the five parties? Only one party has gone to AME?

MR. TEMPERA:

Only one individual is represented by AME.

LEG. VILORIA • FISHER:

The rest of them are now outside of the ••

MR. TEMPERA:

Correct.

LEG. VILORIA • FISHER:

But they had at one time been a part of the bargaining agreement.

MR. TEMPERA:

I believe only one, possibly two, many years ago had been in the bargaining unit.

LEG. VILORIA • FISHER:

Now if the person who is filing a grievance through AME is successful, then you are saying that that standard will be applied to the other four people?

MR. TEMPERA:

Yes

CHAIRMAN ALDEN:

I don't know if you can, but anyway, Henry, you had something.

MR. BARTON:

Yeah. I'm looking at the list of the identified individuals, and it's my belief that four of the five were in the bargaining unit at the time that the notification was to take place, but I could be mistaken. I'm fairly certain that four of the five were members of the bargaining unit.

CHAIRMAN ALDEN:

Thanks.

MR. BARTON:

Our employees, as you know, are uniquely situated. They don't •• a lot of our titles are in the bargaining unit, but don't come off Civil Service lists.

CHAIRMAN ALDEN:

Legislator O'Leary.

LEG. O'LEARY:

Good morning, Jeff.

MR. TEMPERA:

Good morning.

LEG. O'LEARY:

What recourse or protection do exempt employees have with respect to what they perceive to be contractual violations?

MR. TEMPERA:

Actually, I believe there is a grievance procedure for management employees to file as well. I'm not real sure of the specifics of it, I could get it for you, but it's my understanding that there is a procedural grievance procedure for management employees as well. I'd have to check with Labor Counsel.

LEG. O'LEARY:

Is it your position then that the only person that has standing with respect to this issue is the one of the five represented by the bargaining unit?

MR. TEMPERA:

I don't know if standing is the right characterization. The one individual is covered by the AME contract, and they're the only individual who is able to file a grievance under the AME contract.

LEG. O'LEARY:

All right. But under the provisions of 659•88, did not that authorize your office or management per say to remedy any particular grievances?

MR. TEMPERA:

No. 659 of 88 granted certain benefits to management employees including longevity. And it authorized the Director of Labor Relations to promulgate such rules as are necessary to

implement the resolution.

LEG. O'LEARY:

All right. So my question is then does your office has the authority to address the issue of the four who are not covered by the bargaining unit without going through the grievance process?

MR. TEMPERA:

Yes.

LEG. O'LEARY:

So in effect your office has made a decision not to make the payment based on what?

MR. TEMPERA:

We've made the decision to treat them in the same manner as the unionized employee for whom the union is reviewing and filing •• my understanding is filing the grievance. We don't want to treat the management people differently than the unionized individual with regards to this benefit.

LEG. O'LEARY:

But clearly the Taylor Law doesn't apply to the four of the five with respect to this issue, just the one?

MR. TEMPERA:

That's correct. But to grant a benefit to the management employees, again, could be, you know, I'd have to defer to Labor Counsel, where 659 of 88 grants them the benefit the same as the unionized individuals. If I'm interpreting the rules of 659 of 88 and trying to treat them in a similar manner, you have to wait for the outcome of the grievance.

LEG. O'LEARY:

Is there some question as to the merits of the grievance by the bargaining unit as to whether or not they will be successful? Are you contesting that grievance? Are you taking the position of opposed to the merits that they would articulate?

MR. TEMPERA:

What I have gone on the record with AME is that I will not bring up the issue of timeliness for

the '04 payments. I would raise the issue of timeliness with regards to retroactivity on these payments.

LEG. O'LEARY:

All right. But in effect, though, you are •• you are not taking a position that you're adamantly opposed to making these payments notwithstanding the grievance process, or you are?

MR. TEMPERA:

We're opposed to the retroactivity of it. That's •• that's what would be argued before the arbitrator. And as you are well aware, the arbitrator's decision is binding.

LEG. O'LEARY:

So you are saying perspectively, these employees are entitled to compensation, longevity compensation, but not retroactively?

MR. TEMPERA:

Correct. And I believe that that's already been adopted for all of the individuals.

LEG. O'LEARY:

And this has been demonstrated to be •• to be an oversight on the part of the person responsible for making those notifications, that that did not occur thereby making these employees ineligible for that benefit?

MR. TEMPERA:

Again, I think that's what has been characterized here today. I think the •• again, the responsibility is of the individuals to file the paperwork to put the County on notice that they have prior service, similar to what goes on with the police contracts where someone may have prior service somewhere else, it is the obligation of that individual to make the County aware that they have prior service, and then the County credits that prior service.

LEG. O'LEARY:

I agree with your comment regarding the process that the bargaining unit must undertake with respect to address what's perceived as a grievance by an employee that they represent, but what vehicle or what recourse do those who do not have that representation have with respect

to this issue?

MR. TEMPERA:

Again, I think I've offered two recourses. One, and I said I'd have to get back to you on it as to what the grievance procedure is for management, I don't know •• in all my years, I can't recall a management grievance ever going forward, but I believe there is a procedure in place. But number two, as I've said, we would apply the same standard to the management employees as has •• as would be applied to the AME employee, therefore, the outcome of the AME arbitration, if it proceeds in that manner, would be applied to the management employees which would be in accord with 659 of 88.

LEG. O'LEARY:

My only problem is that your office does have the authority to remedy the situation, address it and resolve it to the liking of those who are concerned about retroactive payments. But you have made the decision not to do that. You are awaiting the outcome of the grievance process with respect to the one of the five through AME.

MR. TEMPERA:

Well, I think it would negatively impact an arbitration if AME was able to come in and show an arbitrator •• excuse me, Mister or Mrs. Arbitrator, you know, the County had four other similarly situated individuals and they made these payments to these individuals. I think that might adversely affect the County's arguments in moving forward with the AME employee. I'm willing to let the chips fall where they may with a neutral coming in and reviewing the situation and reviewing the contract, the facts and making a binding decision on the parties and applying that decision across the board.

LEG. O'LEARY:

My only other question then is going forward prospectively, when any future longevity payments are going to be made, is it going to include the past years of services with respect to the County?

MR. TEMPERA:

Absolutely. And my understanding is they've put the carry on notice, all five of them, of the prior service. That has already been recalculated into the system, and they would receive credit for the prior •• prior years.

LEG. O'LEARY:

So a decision has made to make •• to make them whole going forward, which would include the years that's being contested with respect to the retroactivity.

MR. TEMPERA:

Absolutely. Correct. Which is what the clause in the contract talks about. It doesn't say we go back to day one and make you whole for past longevity payments, it says when you make us aware of it, you get credit for all service.

LEG. O'LEARY:

So am I to understand what you are saying is the next longevity payment that is issued by the County, these individuals shall receive credit for all of the years of service with the County including those being contested with respect to this issue?

MR. TEMPERA:

Absolutely. We're not contesting the prior service. We're contesting ••

LEG. O'LEARY:

The retroactivity.

MR. TEMPERA:

Basically in a nutshell, what's occurred here, there was a break in service. People work for the County for a number of years, they had a break in service of greater than a year, they came back as a new employee. Their prior service pre 1997 was never counted for longevity purpose. The change in the AME in 1997 contract gave individuals credit for all County service even if there had a been a break in service. That's what occurred. And since they put us on notice in 2004 that they had these prior years, under the contract, under the interpretation of applying it to the management employees, they've received all that service.

LEG. O'LEARY:

All right. It seems to me •• never mind, I don't want to go there. You are going to pay for it in the future, but you don't want to pay for it because of a technical error that was created as a

result of a lack of notification?

CHAIRMAN ALDEN:

That's it in a nutshell. I think I made a motion, didn't I? No. No motion? I'm going to make a motion to approve, do I have a second?

LEG. LINDSAY:

Second.

CHAIRMAN ALDEN:

Seconded by Legislator Lindsay.

LEG. VILORIA•FISHER:

Motion to table.

CHAIRMAN ALDEN:

Okay. There's a motion by Legislator Viloria•Fisher to table. Is there a second to her motion? Tabling motion fails. There's a motion and a second to approve. All those in favor? All those Opposed?

LEG. VILORIA•FISHER:

I abstain.

CHAIRMAN ALDEN:

Legislator Viloria•Fisher abstains. **Approved. (VOTE:5•0•1•1) (Abstention; Legis. Viloria•Fisher) (Not Present; Legis. Mystal**

1866•2004. Authorizing certain technical corrections to Adopted Resolution No. 731•2004. (COUNTY EXEC)

CHAIRMAN ALDEN:

This is from the County Executive's office.

MS. KNAPP:

Again, this is the County Executive's as you pointed out. It's a revenue •• I wish Jim were here. It basically shows a transfer from fund one of \$3598 that becomes an expenditure out of

EMP, which I believe •• is EMP •• no, I shouldn't comment on what EMP is. It is a technical correction that has to do with \$3598.

CHAIRMAN ALDEN:

How about 1886 and 87, are they pretty much that same thing? I'm sorry, 88? So it's 86, 87, 88. These are all technical corrections.

MS. KNAPP:

They seem to be identical except for the amounts.

CHAIRMAN ALDEN:

How much approximately are the amounts?

MS. KNAPP:

3352 dollars in 87, and in 88 •• oh, it's slightly different. In 88 this is a •• it's changing a project number from 5344.311 to .310. That's slightly different.

CHAIRMAN ALDEN:

I'm going to make a motion to approved 1886. I'll ask Jim at the next General Session if he could just explain it a little better for us as far as from a Budget Review side. So I have motion to approved 1886, seconded by Legislator Vilorio•Fisher. All those in favor? Opposed? That's **APPROVED. (VOTE:6•0•0•1) (Not present: Legis. Mystal)**

1887•2004. Authorizing certain technical corrections to Adopted Resolution No. 637 •2004. (COUNTY EXEC)

CHAIRMAN ALDEN:

Same motion, same second, same vote. **APPROVED. (VOTE:6•0•0•1) (Not present: Legis. Mystal)**

1888•2004. Authorizing certain technical corrections to Adopted Resolution No. 895 •2004. (COUNTY EXEC)

CHAIRMAN ALDEN:

Same motion, same second, same vote. **APPROVED. (VOTE:6•0•0•1) (Not present:**

Legis. Mystal).

1891 • 2004. Adopting Local Law No. • 2004, a Local Law to authorize the implementation of the subscription service fee schedule for County Clerk. (COUNTY CLERK)

MS. JULIUS:

Mr. Chairman, 1891 has to be tabled public hearing set for the General Meeting on 11/16.

CHAIRMAN ALDEN:

Thank you. Motion to table by myself, seconded by Legislator Losquadro. That's **TABLED** for a public hearing. **(VOTE:6 • 0 • 0 • 1) (Not present: Legis. Mystal).**

Who do we have here from Real Estate.

MS. LONGO:

I'm Janet Longo from Real Estate.

1900 • 2004. Sale of County • owned real estate pursuant to Local Law 13 • 1976 Sebastian R. Sipala and Ferdinand Sipala as tenants in common. (COUNTY EXEC)

COMMISSIONER DEMARZO:

Direct sale to an adjoining owner for \$7000.

CHAIRMAN ALDEN:

And what was our estimate?

MS. LONGO:

The appraisal was 7000.

LEG. LINDSAY:

Motion.

CHAIRMAN ALDEN:

Motion by Legislator Lindsay, seconded by Legislator Nowick. All those in favor? Opposed? I'm

going to change the motion to a motion to approved and put on the Consent Calender. All those in favor? Opposed? That's **APPROVED** and on the **CONSENT CALENDER. (VOTE:6•0•0•1)**
(Not present: Legis. Mystal)

1901•2004. Authorizing the Director of the Division of Real Estate, Department of Planning to issue a certificate of abandonment of the interest of the County of Suffolk in property designated as the Town of Southampton pursuant to Section 40•D of the Suffolk County Tax Act. (COUNTY EXEC)

MS. LONGO:

That was lack of notice.

CHAIRMAN ALDEN:

Lack of notice. Same motion, same second, same vote. **APPROVED** and placed on the **CONSENT CALENDER (VOTE:6•0•0•1) (Not present: Legis. Mystal)**

1902•2004. Authorizing the Director of the Division of Real Estate, Department of Planning to issue a certificate of abandonment of the interest of the County of Suffolk in property designated as the Town of Southampton pursuant to Section 40•D of the Suffolk County Tax Act. (COUNTY EXEC)

MS. LONGO:

That's a non existent parcel.

CHAIRMAN ALDEN:

So we sold it to somebody?

MS. LONGO:

No. It was created in error. It's a certificate of abandonment.

CHAIRMAN ALDEN:

Thank you. Same motion, same second, same vote. **APPROVED** and placed on the **CONSENT CALENDER (VOTE:6•0•0•1) (Not present: Legis. Mystal)**

1903•2004. Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act John L. Thompson and Sylvia Thompson, his wife. (COUNTY EXEC)

MS. LONGO:

That's as of right redemption.

CHAIRMAN ALDEN:

Same motion, same second. **APPROVED** and placed on the **CONSENT CALENDER (VOTE:6•0•0•1) (Not present: Legis. Mystal).**

1904•2004. Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act G•K Associates. (COUNTY EXEC)

MS. LONGO:

That's redemption, as of right.

CHAIRMAN ALDEN:

As of right. Same motion, same second. **APPROVED** and placed on the **CONSENT CALENDER (VOTE:6•0•0•1) (Not present: Legis. Mystal).**

1905•2004. Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Sonai Rodriguez. (COUNTY EXEC)

MS. LONGO:

Same thing, as of right redemption.

CHAIRMAN ALDEN:

Same motion, same second. **APPROVED** and placed on the **CONSENT CALENDER (VOTE:6•0•0•1) (Not present: Legis. Mystal).**

1906•2004. Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Basilia Marin. (COUNTY EXEC)

MS. LONGO:

As of right redemption.

CHAIRMAN ALDEN:

Same motion, same second. **APPROVED** and placed on the **CONSENT CALENDER (VOTE:6•0•0•1) (Not present: Legis. Mystal).**

1907•2004. Sale of County•owned real estate pursuant to Local Law 13•1976 Colette C. Smith. (COUNTY EXEC)

MS. LONGO:

That's a sale to an adjoining owner for a thousand dollars, the appraisal was 650.

CHAIRMAN ALDEN:

We did good, okay. Same motion, same second. **APPROVED** and placed on the **CONSENT CALENDER (VOTE:6•0•0•1) (Not present: Legis. Mystal).**

1908•2004. Sale of County•owned real estate pursuant to Local Law 13•1976 Nicholas J. Busa and Rosaria Busa, his wife. (COUNTY EXEC)

MS. LONGO:

That's a sale to adjoining owner for \$10,000, and that was the appraised amount.

CHAIRMAN ALDEN:

Same motion, same second. **APPROVED** and placed on the **CONSENT CALENDER (VOTE:6•0•0•1) (Not present: Legis. Mystal).**

1909•2004. Sale of County•owned real estate pursuant to Local Law 13•1976 Robert Jay. (COUNTY EXEC)

MS. LONGO:

Sale to adjoining owner for 12,000, the appraisal was 11.

CHAIRMAN ALDEN:

Same motion, same second. **APPROVED** and placed on the **CONSENT CALENDER (VOTE:6•0•0•1) (Not present: Legis. Mystal).**

1910•2004. Authorizing the Director of the Division of Real Estate, Department of Planning to issue a certificate of abandonment of the interest of the County of Suffolk in property designated as the Town of Huntington pursuant to Section 40•D of the

Suffolk County Tax Act. (COUNTY EXEC)

MS. LONGO:

Lack of notice.

CHAIRMAN ALDEN:

Lack of notice. Okay. Same motion, same second. **APPROVED** and placed on the **CONSENT CALENDER**

(VOTE:6•0•0•1) (Not present: Legis. Mystal)

1911•2004. Authorizing the Director of the Division of Real Estate, Department of Planning to issue a certificate of abandonment of the interest of the County of Suffolk in property designated as the Town of Huntington pursuant to Section 40•D of the Suffolk County Tax Act. (COUNTY EXEC)

MS. LONGO:

Lack of notice.

CHAIRMAN ALDEN:

Same motion, same second. **APPROVED** and placed on the **CONSENT CALENDER (VOTE:6•0•0•1) (Not present: Legis. Mystal).**

1912•2004. Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Gary L. Waters. (COUNTY EXEC).

MS. LONGO:

As of right redemption.

CHAIRMAN ALDEN:

Same motion, same second. **APPROVED** and placed on the **CONSENT CALENDER (VOTE:6•0•0•1) (Not present: Legis. Mystal)**

1913•2004. Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Nadia Farber, administrator of the estate of Sid Farber a/k/a Sidney Farber. (COUNTY EXEC)

MS. LONGO:

As of right redemption.

CHAIRMAN ALDEN:

Same motion, same second. **APPROVED** and placed on the **CONSENT CALENDER (VOTE:6 •0•0•1) (Not present: Legis. Mystal).**

1914•2004. Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Thomas M. Kortarski. (COUNTY EXEC)

MS. LONGO:

As of right redemption.

CHAIRMAN ALDEN:

Same motion, same second. **APPROVED** and placed on the **CONSENT CALENDER (VOTE:6 •0•0•1) (Not present: Legis. Mystal).**

1915•2004. Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Beverly Macauley and Cheryl Caliguri. (COUNTY EXEC)

MS. LONGO:

As of right redemption.

CHAIRMAN ALDEN:

Same motion, same second. **APPROVED** and placed on the **CONSENT CALENDER (VOTE:6 •0•0•1) (Not present: Legis. Mystal)**

1916•2004. Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Beverly Macauley and Cheryl Caliguri. (COUNTY EXEC)

MS. LONGO:

Same thing, as of right redemption.

CHAIRMAN ALDEN:

Those are two separate parcels?

MS. LONGO:

Yes.

CHAIRMAN ALDEN:

Same motion, same second. **APPROVED** and placed on the **CONSENT CALENDER (VOTE:6•0•0•1) (Not present: Legis. Mystal).**

1917•2004. Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Patricia Cotton, administrator of the estate of Rose Leggette a/k/a Rose M. Leggette. (COUNTY EXEC)

MS. LONGO:

As of right redemption.

CHAIRMAN ALDEN:

Same motion, same second. **APPROVED** and placed on the.

CONSENT CALENDER (VOTE:6•0•0•1) (Not present: Legis. Mystal).

1918•2004. Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Leslie Small. (COUNTY EXEC)

MS. LONGO:

As of right redemption.

CHAIRMAN ALDEN:

Same motion, same second. **APPROVED** and placed on the **CONSENT CALENDER (VOTE:6•0•0•1) (Not present: Legis. Mystal).**

1919•2004 Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Jeanette Maldonado and Jeanette Maldonado as guardian of the property of Michelle Maldonado, as tenants in common. (COUNTY EXEC)

MS. LONGO:

As of right redemption.

CHAIRMAN ALDEN:

Same motion, same second. **APPROVED** and placed on the **CONSENT CALENDER (VOTE:6•0•0•1) (Not present: Legis. Mystal).**

1920•2004. Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Daniel Albizu and Eddy M. Albizu. (COUNTY EXEC)

MS. LONGO:

Redemption, as of right.

CHAIRMAN ALDEN:

Same motion, same second. **APPROVED** and placed on the.
CONSENT CALENDER (VOTE:6•0•0•1) (Not present: Legis. Mystal).

1921•2004. Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Lorenzo Hazz and Judith Hazz, his wife. (COUNTY EXEC)

MS. LONGO:

As of right redemption.

CHAIRMAN ALDEN:

Same motion, same second. **APPROVED** and placed on the **CONSENT CALENDER (VOTE:6•0•0•1) (Not present: Legis. Mystal).**

1922•2004. Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Albert Barrette. (COUNTY EXEC)

MS. LONGO:

As of right redemption.

CHAIRMAN ALDEN:

Same motion, same second. **APPROVED** and placed on the **CONSENT CALENDER (VOTE:6**

•0•0•1) (Not present: Legis. Mystal).

1923•2004. Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Lester Barrette. (COUNTY EXEC)

MS. LONGO:

Same thing, as of right.

CHAIRMAN ALDEN:

Same motion, same second. **APPROVED** and placed on the **CONSENT CALENDER (VOTE:6 •0•0•1) (Not present: Legis. Mystal).**

1924•2004. Authorizing the sale, pursuant to Local Law 16•1976, of real property acquired under Section 46 of the Suffolk County Tax Act Albert Barrette. (COUNTY EXEC)

MS. LONGO:

As of right.

CHAIRMAN ALDEN:

Same motion, same second. **APPROVED** and placed on the **CONSENT CALENDER (VOTE:6 •0•0•1) (Not present: Legis. Mystal)**

CHAIRMAN ALDEN:

Now, we have hang out for a minute.

1934•2004. Adopting Local Law No. • 2004, a Local Law to streamline conveyance of real property transactions. (LINDSAY)

CHAIRMAN ALDEN:

Legislator Lindsay, you want to give explanation or you want Counsel to give an explanation?

LEG. LINDSAY:

Counsel.

MS. KNAPP:

This local law regards the 215 applications that you may be familiar with, those are the resolutions where a homeowner has lost their property, the period of redemption has past and there's this last window in which the Legislature can convey property back to the prior homeowner if they meet certain conditions that are set forth in the statute, and they're very •• they're tightly drawn conditions; that is, there is there has to be a health issue that is evidenced by some written, evidence by a doctor or financial problems that relate to unemployment that's as evidenced by incomes tax filings, or in the event that there's been an error and then a certificate issued by the Town Assessor.

In our procedural statute, in the Code, we require that each of these 215 resolutions before they can be presented to the Legislature be recommended by a three person committee consisting of a representative of the County Executive, the Presiding Officer, I believe it is, and the County Attorney. It's my understanding that if this committee every existed, it hasn't existed for many years and that it's one of those things that had more honored in the abridged then in the observance. And it doesn't seem to •• if it existed ever, it must not of served a very valuable function, because no one can remember it ever meeting.

Legislator Lindsay, upon hearing this at a meeting in which it was raised as an issue, said, well, why don't we just eliminate from the Suffolk County Code, and that's what this local law does.

CHAIRMAN ALDEN:

Ben, do you want to speak on it?

MR. ZWIRN:

No. No, we have no objection on it.

LEG. VILORIA•FISHER:

I just have a question of Counsel.

CHAIRMAN ALDEN:

Legislator Viloria•Fisher.

LEG. VILORIA•FISHER:

Is this going to be addressed in the legislation that was sponsored by Legislator Cooper in looking at redemptions?

MS. KNAPP:

No. I believe that •• you mean the task force, Legislator Cooper's task force?

LEG. VILORIA • FISHER:

Yes.

MS. KNAPP:

That relates to •• that's kind of the next step. This is not at issue there, because those •• these houses never make it on to any auction list. This is a procedure that's •• that's another one of the fail safe mechanisms before we reach the state where real estate actually gets ••

LEG. VILORIA • FISHER:

I was just under the impression that that task force would be looking all of the steps leading to that auction proceeds. I was just under that impression.

MS. KNAPP:

That's a possibility, although this is something that as I say, I read it in the Code when I first came here just because, you know, I was reading everything carefully. And I brought it to the attention of Linda Burkhardt, and I asked her who was the representative and when they met. And she was completely startled by it, and Linda has been here for 19 years. You know, then we started to inquire further. And she communicated with Nina Tramantano, who as you know used to handle these. And it's a vestigial organ, I believe. It's an appendix.

LEG. VILORIA • FISHER:

Thank you.

CHAIRMAN ALDEN:

That was closed early today, the public hearing, so it's live before us. We have a motion by Legislator Lindsay to approve, seconded by Legislator Losquadro. All those in favor? Opposed? 1934 is **APPROVED. (VOTE:6•0•0•1) (Not present: Legis. Mystal).**

1936•2004. Sale of County•owned real estate pursuant to Local Law 13•1976 Walter E. Adamko. (COUNTY EXEC).

MS. LONGO:

That's a sale to adjoining an owner for \$10,500, which was also the appraised amount.

CHAIRMAN ALDEN:

Okay. Motion by Legislator Nowick to approve and put on the Consent Calender, seconded by Legislator Vilorio•Fisher. All those in favor? Opposed? **APPROVED** and placed on the **CONSENT CALENDER . (VOTE:6•0•0•1) (Not present: Legis. Mystal).**

1941•2004. To approve the replacement of an existing full•size van in the Suffolk County Department of Labor. (COUNTY EXEC)

CHAIRMAN ALDEN:

Now, just one quick question. You guys didn't buy this already and it's not running around there like the last time, right? Did you but it already?

AUDIENCE MEMBER:

No.

CHAIRMAN ALDEN:

Good. Motion to approve by myself, seconded by Legislator O'Leary. All those in favor? Opposed? 1941 is **approved. (VOTE:6•0•0•1) (Not present: Legis. Mystal).**

1966•2004. Authorizing the lease of premises located at 30 E. Hoffman Avenue, Lindenhurst, NY for the use as the Second District Court. (COUNTY EXEC)

LEG. O'LEARY:

Motion.

CHAIRMAN ALDEN:

Motion by Legislator O'Leary, seconded by Legislator Lindsay. All those in favor? Opposed? **APPROVED. (VOTE:6•0•0•1) (Not present: Legis. Mystal).**

1972•2004. Adopting Local Law No. • 2004, a Charter Law creating a County Department of Environment and Energy. (COUNTY EXEC)

LEG. O'LEARY:

Motion to table by Legislator O'Leary, seconded by Legislator Nowick. All those in favor?
Opposed?

MS. JULIUS:

Mr. Chairman, it has to be tabled for a public hearing of the next General Meeting.

CHAIRMAN ALDEN:

Tom, come on up.

MR. ISLES:

Thank you, Mr. Chairman. I just wanted to provide a brief comment regarding the planning side of this one. This bill would involve •• impact on a number of departments in terms of consolidation of certain energy and environmental functions. In terms of the planning aspects, I'll just make a couple of points very briefly.

Number one, of course, is that the Real Estate Division would be relocated out of the Planning Department under this bill. As some of you may know or many of you may know the Real Estate Division moved over about five years ago in 1999 to Planning. Prior to that, the history of the Planning Department and Real Estate were separate and distinct from the Planning Department itself.

And I think there are two reasons that I'd just like to underscore with this. One is that the •• part of the intent of this, I believe, is to provide Planning with more of a focus on planning items. And although we have a good relationship and I've enjoyed working with Real Estate, what this would do is enable the Planning Department to focus on strictly on planning items.

But then secondly is that it would still provide an opportunity for interacting with Real Estate just as Planning interacts and deals on a daily basis •• almost daily basis with the Health Department, Public Works and so forth. I would anticipate and fully expect that we would also do so with the new Department of Energy and Environment •• Environment and Energy, pardon me. The aspects that Planning would likely be involved in would be land acquisitions, disposal of property through 72•H, those types of matters. The items we probably wouldn't be too involved in is redemptions, inventory management, which takes up a big part of the Real Estate Division's aspects. So just in terms of •• obviously, this is significant in terms of its alteration of County government offering certain efficiencies and improvements. I just wanted to have an

opportunity to convey a couple of the points regarding the Planning Department itself. Thank you.

CHAIRMAN ALDEN:

Thanks, Tom. Motion to table for a public hearing, seconded on that motion. All those in favor? Opposed? 1972 is **TABLED. (VOTE:6•0•0•1) (Not present: Legis. Mystal)**

When is the public hearing scheduled for, Ilonia?

MS. JULIUS:

11/16, next General Meeting.

CHAIRMAN ALDEN:

Thank you.

1981•2004. Adopting Local Law No. • 2004, a Local Law to update Suffolk County Living Wage Law. (BISHOP)

CHAIRMAN ALDEN:

We had the public hearing earlier today also. That public hearing was closed. I'll entertain a motion.

LEG. LINDSAY:

Motion.

CHAIRMAN ALDEN:

Motion by Legislator Lindsay, seconded by Legislator Viloría•Fisher. Explanation.

LEG. VILORIA•FISHER:

Actually, Mr. Chair, I was going to beg your indulgence. It's two minutes of twelve, and we had asked •• I believe you had asked Mr. Russo to be here at 12, and I don't know if this is going to be a lengthy explanation or discussion.

CHAIRMAN ALDEN:

For this?

LEG. VILORIA•FISHER:

Yeah.

CHAIRMAN ALDEN:

I'm voting in favor of it.

LEG. VILORIA • FISHER:

Okay. I just wanted to point out that I think I saw Mr. Russo in the back.

CHAIRMAN ALDEN:

I see his attorney is here.

LEG. VILORIA • FISHER:

Okay. Thank you.

CHAIRMAN ALDEN:

Bill, did you have a question on it or did you want just a quick explanation?

LEG. LINDSAY:

Quick explanation.

MS. KNAPP:

For the most part, all of these •• all of the changes where requested specifically by the department, and they emanated from the people who actually do the work. Most of the changes are word changes in which the word "assistance" becomes "compensation," and the word "beneficiary" becomes "recipient". There's only one change, I suppose, that I should point out. Beginning on January 1st, 2006, the living wage for all covered employees of child care providers would increase by 75 cents per hour worked. And there is another provision that deals with dollars, which is probably important to point out, and that is for employees of child care providers only, the living wage shall be no less than \$9 per hour worked with or without health benefit of which no less than 7.75 shall be attributed to benefit employee compensation until January 1st, 2005.

In the event that health benefits are not provided, then such employee shall received \$9 per

hour worked. Beginning January 1st, 2005, the living wage for employees of child care providers shall be no less than 9.75 per hour worked of which no less than 8.50 shall be attributed to non benefit employee contributions. In the event that health benefits are not provided, then such employees shall receive 9.76 per hour worked, and then it mirrors the change I read earlier, beginning January 1st, 75% •• 75 cents per hour for all covered employees of child care providers. That's the change of substance, the others are word changes.

CHAIRMAN ALDEN:

Legislator Lindsay, did you have any other words or comments?

LEG. LINDSAY:

The increases had to do with the automatic escalators in the original bill, am I correct? I believe so.

MS. KNAPP:

There have been many changes to this. And quite frankly, we had an issue in that one of the amendments had never made into our Code, so that I'm not certain whether or not •• and they had to do with the dollar increases. So I can't answer that with any certainty. Probably Brenda Rosenberg would be the person.

LEG. LOSQUADRO:

On the motion.

CHAIRMAN ALDEN:

Legislator Viloría•Fisher, then Legislator Losquadro.

LEG. VILORIA•FISHER:

Just a question for Counsel. Counsel, number nine where the language says, Section 347•15 has been amended whereby not•for•profit corporations is replacing child care providers, can you explain what that means? It's the very last piece of the legislation.

MS. KNAPP:

I believe that they're extending it to all not•for•profit corporations, not just child care providers.

LEG. VILORIA • FISHER:

I'll speak with the sponsor to further clarify that, because we have had some discussions as to how •• what the parameters would be for child care providers and the assistance that they would be getting. And so that's not really that clear what his intent was there to me.

LEG. LINDSAY:

Okay.

CHAIRMAN ALDEN:

Legislator Losquadro.

LEG. LOSQUADRO:

You spoke to the assistance, and that's what I just going to get to. My understanding is that we already subsidized this in part to keep certain providers solvent who cannot meet this living wage requirement as it is. So are we in essence just going to be footing a larger portion of the bill if we approve this?

CHAIRMAN ALDEN:

The answer to that is probably. I'll make a motion •• there's a motion to approve and a second, but I'll make a motion to discharge without recommendation and then these questions can be answered on the floor by the sponsor and fully debated by all the members. Is that okay.

LEG. LOSQUADRO:

I'll second that motion.

CHAIRMAN ALDEN:

Motion to discharge without recommendation by myself, seconded by Legislator Losquadro. All those in favor? Opposed? That's **discharged without recommendation. (VOTE:6•0•0•1)**
(Not present: Legis. Mystal)

1986•2004. Authorizing legal action against Long Island Convention and Visitors Bureau, Inc. Seeking recovery of improperly expended taxpayer funds.
(CARACCILO)

CHAIRMAN ALDEN:

I just think that this is a little bit premature in that LICVB has not answered fully the charges that were brought up by the Comptroller. So I'm going to ask to table this. I'm going to make a motion to table it, seconded by Legislator O'Leary. All those in favor? Opposed? That's **tabled. (VOTE:6•0•0•1) (Not present: Legis. Mystal).**

Sense Resolution

S•74. Sense of the Legislature resolution requesting the Federal and State government to provide policy and funding to ensure election integrity to secure the right to vote for all citizens. (BISHOP)

CHAIRMAN ALDEN:

legislator Bishop came before us, and he had it as an authorizing resolution that we were going to do in Suffolk County. Now he's asking New York State to look into all of the things, and I believe we've all indicated we would support him in this. So I'm going to make a motion to approve, seconded by Legislator Viloría•Fisher. All those in favor? Opposed? **Approved. (VOTE:6•0•0•1) (Not present: Legis. Mystal)**

CHAIRMAN ALDEN:

Now, we are going to go back to **1350**, the first tabled resolution. **Authorizing a removal hearing for a member of the Suffolk County Water Authority, Eric Russo, (Legislator Viloría•Fisher).** And Mr. Russo is here today, and I believe Mr. Wexler is here also with him. Just to remind everybody, we have a fairly quick Executive Session after we finish with this resolution that we're going to have to go into for a few minutes. If you guys want to sit down, it's probably a little more comfortable for you.

To give a little bit of history, I guess, to what we have done in the past and what we've looked at, a prior Presiding Officer, Legislator Tonna, authorized a special committee to look into actions of the Water Authority. In that summary of those proceedings by Fred Pollert, I guess there was some use of credit cards that was questionable and other actions like that. There was to my knowledge, I believe that it was put on the record District Attorney had looked into that and had not filed any criminal charges. Then a period of time elapsed under Presiding Officer Maxine Postal, and the issue of impropriety or whatever over at the Water Authority was kind of not brought to the forefront for that period of time. Now recently, this legislation has been introduced by Legislator Viloría•Fisher.

At the last committee meeting, the Chairman of the Board of the Water Authority, Michael LoGrande, came forward and put on the record that he believes that there was a couple of instance of impropriety where Mr. Russo who represents private clients used his position or possibly used his position as a member of the board of the Water Authority to get some type of either special treatment or a different type of treatment. That I think is a real quick summary. I think that everybody's got copies of the •• and Mr. Wexler, did I get you a copy of Fred Pollert's report and the minutes from the last meeting?

MR. WEXLER:

Yes.

CHAIRMAN ALDEN:

Okay. Thanks. So that's where we stand. I'm going to turn it over to Legislator Viloria•Fisher.

LEG. VILORIA•FISHER:

Thank you, Mr. Chairman. Thank you Mr. Russo and Mr. Wexler for being here. Mr. Chair, this is not at all how I envisioned this when I filed this resolution, which is a resolution asking for us to have a hearing. It seems to me that we're doing •• we seem to be almost holding a hearing before we have voted on the resolution.

CHAIRMAN ALDEN:

Okay. In answer to you, and this is just one Legislator saying it, I have to be convinced that there's merit for us to hold a hearing to go forward and then fully explore it. So if you can convince me, okay, there appears to be some impropriety or something along those lines that we have to look into forward, then I would vote in favor of this. If I'm not convinced, you know, that there's any impropriety, then I'm going to vote, you know, either to table this or vote against it, because it is going to sap some resources, it's going to require Mr. Russo and Mr. Wexler's time. Mr. Wexler is not donating time, I'm sure he will charge for the time. So there is a considerable expense on the part of government and on the part of individuals.

LEG. VILORIA•FISHER:

Well, in terms of a hearing, we are talking of a Legislative hearing, coming to •• coming before the Legislature and not going to a court. So I'm not certain what expenses it would incur other than us having here on the record the information provided by the person who is •• who is

subject here of the discussion. And I'm very glad to see him come before us, because I don't like seeing someone's name out there for all of these months without having his input on the accusations that were made. These were all issues that came up that were put on the record well over a year ago at the Ad Hoc Water Authority Committee. You and Legislator Lindsay and I were all a part of that committee, and know what came up there, and we had had •• at that point in time when we were on that committee, we had said this is something which we will need to look at more carefully at some later time. And that's when I had then Legislative Counsel, Paul Sabatino, draw this up, and we were waiting until we were back in session in the new year to begin the hearing or begin to look at this. That was Counsel's ••

CHAIRMAN ALDEN:

To be straight up also, as far as I'm concerned, when Mr. LoGrande came before us and stated that, yeah, there were some problems and some improper use of credit cards, that was a policy, though, that he had straightened out supposedly, because in Mr. Pollert's report, he said that he recommended against, you know, just allowing use of credit cards, gas fueling places, because it could lead to abuses. I believe that Mr. LoGrande said that on that report, there were no outstanding issues, that he had instituted changes or that somebody in the Water Authority had instituted changes and that safeguards were in place. So in my mind that really eliminated any problem going forward with what came up with that report. And the second thing that put this to rest a little bit on my part was that the District Attorney did look at that report and did look at that conduct and did not bring up any charges.

LEG. VILORIA • FISHER:

But we're certainly not a criminal investigation. It's not our purview.

CHAIRMAN ALDEN:

Right. But those are all things you have to look at. Those are all things you have to look at when we look at whether we think that somebody acted improperly. Now, Mr. LoGrande at the last committee meeting brought up something that I feel has to be explored or really is the subject •• or should be the subject of this committee, and that's the allegation that Mr. Russo used his power as a member of the board on dealing with some of his private clients. I've also ••

LEG. VILORIA • FISHER:

If you think that should be explored •• this is my argument, that if you feel this should be

explored, then we should probably vote to approve the resolution and have that as part of the record on the hearing.

CHAIRMAN ALDEN:

I wouldn't do that until Mr. Russo explains to me, you know, like, his side of the story, because I've only got half the story. But the other part is I've also •• I've sent some documentation over to the Ethics Commission, and I'm going to ask for their opinion on whether ethics violations had occurred here. And I'll base my decision on whether to go forward with a hearing on, number one, what we hear today; and number two, what we hear from the Ethics Commission.

LEG. VILORIA • FISHER:

So what you are asking is for Mr. Russo to give us his side of the story right now?

CHAIRMAN ALDEN:

Basically.

MR. WEXLER:

Just before we begin, if I may, there are a few exhibits I'd like to offer into evidence for this committee to consider, and I have copies of them. I don't know who I would proffer them to.

CHAIRMAN ALDEN:

Give them to Linda, then, you know, we will make copies, and I'll distribute it to the rest of committee.

MR. WEXLER:

I just want them to be a part of this record. If I may, just for the record, state what they are. I have an affidavit from a James Petrocelli made on October 22nd of 2004. Mr. Petrocelli is a proprietor of Northeast Aviation. I have an affidavit, and they're our next exhibits to the Petrocelli affidavit. I have an affidavit I've also I've tendered to the committee from a Mark Baisch, B•a•i•s•c•h, who is President of Landmark Properties of Suffolk County. I also have a letter dated January 27th of 2003, with the next exhibits that is drafted by Eric J. Russo, my client, and that was submitted to Mr. LoGrande in response to the December 6th report of the Suffolk County Water Authority Ad Hoc Committee.

Apparently that was never tendered to this body, so I'm doing that now. It was never tendered

by the Water Authority or Mr. LoGrande. I have a March 18th, 2002 letter drafted by Mr. Russo. I have also tendered a copy of the policy governing conflicts of interest and disclosure of the Suffolk County Water Authority. And I've also tendered three years or four years of Mr. Russo's disclosure statements to the Water Authority. Thank you very much.

CHAIRMAN ALDEN:

Thank you, Bill. Legislator Vilorio•Fisher.

LEG. VILORIA•FISHER:

Would you be able to give us a hint as to •• since we are not looking at these affidavits, Bill, what •• to what does Northeast Aviation and the Baisch Landmark Property refer to? What's the context of these?

MR. WEXLER:

Certainly. The context are having reviewed the minutes of the meeting wherein Chairman LoGrande addressed two issues that he believed were or he opined that there was evidence of conflicts of interest by Mr. Russo. I have sought affidavits from proprietors or directors of the two companies that Mr. LoGrande has alleged there are conflicts, the first being Northeast Aviation. And the context of the Petrocelli affidavit from Northeast Aviation in having reviewed Mr. LoGrande's testimony before this committee, there was some sort of oblique reference that Northeast Aviation did something that as a result of my client's interference, they received a permit in four days rather than four weeks. And somehow the insinuation is that my client intervened or did some untoward.

Next to the affidavit of Mr. Petrocelli is two documents. The first is a February 11th, 2004, document from the Water Authority concerning their water application, and then there is a June 28th, 2004, letter from the Water Authority advising him, him meaning Northeast Aviation, of the proposal and what would need to be done to obtain this permit. The purpose of the affidavit and the documents are to show beyond cavil that there is a four month delay in time. This wasn't something that happened in the middle of the night, and the affidavit from Mr. Petrocelli speaks to that.

The second affidavit of Mark Baisch of Landmark Properties, in that instance, reviewing the minutes of Chairman LoGrande, again, it's the insinuation that he opined that somehow Landmark Properties didn't think they would have to pay for a certain study performed by the

Water Authority, and that as a result of that, somehow that was the influence of my client. The affidavit speaks to the fact that Landmark Properties has done business in the past with the Water Authority. They are a very large company. In fact, they were advised, and this is sworn testimony, they were advised of the work, and the study was prepared, and they would be advised of the cost. On the day they were advised of the cost, Landmark Properties sent somebody to the Water Authority with a check drawn to their order for \$2004, paid in full, on or about the same day they were advised of what the cost would be. In fact, if I may read just part of it, that Mr. Baisch says that it was Mr. Russo who advised him to contact the Water Authority to compile the data, and when the work was completed to pay the fees. The January 27th of 2003, letter ••

LEG. VILORIA • FISHER:

May I interrupt a minute, I just have a question?

MR. WEXLER:

Of course.

LEG. VILORIA • FISHER:

It is generally the position of board members to advise people as to what kind of fees there are? Is that •• I didn't follow what you just said, that Mr. Russo advised Baisch properties that there was a cost? Or •• can you just repeat that? I might have missed some of what you just said.

MR. WEXLER:

I believe •• my client is nudging me, he wants to tell you, and he will. But to answer your question, I believe that it's our position that the affidavit from Mr. Baisch is that he contacted •• he was told by Mr. Russo to contact the Water Authority, whatever documents he needed, they would be prepared as was done in the past and they would pay the fee. There's nothing about ••

LEG. VILORIA • FISHER:

Okay. I didn't hear what you said. I thought you said that he had told them to pay the fee. You're saying that he advised them to contact the Water Authority is what you're saying?

MR. WEXLER:

Yes. He had nothing to do with addressing the fee, establishing the fee, the timing of the fee.

LEG. VILORIA • FISHER:

That was my question.

MR. WEXLER:

Fee was not in his vocabulary dealing with Landmark Properties. Again, the January 27th letter of '03, is the response by Mr. Russo concerning this committee, or the committee as it was constituted on December 6th of 2002, concerning mileage and gas. We only learned, we, my client and I, only learned of late that the Legislature never received a copy of this. Apparently the Chairman of the Water Authority never submitted a response to this committee, at least not that I'm aware of. We checked with the Legislature, and there is none on record.

This January 27th, '03, was given to Mr. LoGrande and distributed to the other members, and Mr. LoGrande was asked to submit this with his response to the Legislature. There was no response by Chairman LoGrande, as such, it was never submitted to the Legislature. We assumed that it was. Next to that are exhibits explaining the fuel mileage and also the credit card issues. The March 18th letter of 2002 I've submitted is the day that Mr. Russo learned he used the wrong credit card, he used the Water Authority instead of the personal, the day he was informed of that, he paid the sums back, and this is just proof of that. And also, finally, is the policy governing conflict of interest and disclosure, which ••

LEG. VILORIA • FISHER:

Before you go to the last one, can we go back to the letter, please, Mr. Wexler?

MR. WEXLER:

Sure.

LEG. VILORIA • FISHER:

This legislation has been out there since April. At what point did your client discover that his letter had never been forwarded to the Legislature?

MR. RUSSO:

Ms. Fisher, first of all, my name is Eric Russo, as you know. I am a practicing zoning attorney here in Suffolk County. I also serve at the pleasure of the Legislature as a member of the Board of the Suffolk County Water Authority and have done so since January 18th, 1991. I've served on the board for 13 and three-quarter years. I find it to be a honorable service, a purposefully service to assist with the distribution and protection of water here throughout the County to our 1.2 million residents.

I am coming before you today willingly and want to respond to any questions that all of you may have concerning this, because my concern has been that there are statements that have been made by individuals, which are when I went through the minutes of what was brought forth here, I can prove to this committee that are falsehoods and fabrications of the truth as the way that they were presented, that they were not completely accurate, and that what I was led to believe may or may not have been the case in terms of information being provided to the Legislature only to find out between Friday and yesterday that no report was every responded to by the Suffolk County Water Authority to this body to the •• this report. I'm referring to the December 6th, 2002 report from the Suffolk County Water Authority Ad Hoc Committee of the Suffolk County Legislature, which I believe you served on that committee.

This is a 46 page report of which I'm identified on two pages. The issues that you cite in your resolution, which you gave into this committee in April 19th of this year. In this report, when you turn to pages 13 and 14, which are the pages which reference me and the concerns that are referenced by you in your resolution, when we received this report, the board members received this report at the Water Authority Board Meeting on December 21st of that year. We were a distributed a copy of this report. And in Executive Session, Mr. LoGrande advised myself and the other three board members, which were Dr. Fritz as well as Mr. Priois and Mr. Gee that he fully intended to respond to this report and have a written response to address all of issues that were raised by the committee. He advised me that I needed to respond to those pages, particularly 13 and 14, and provide it so that it could be incorporated in that report.

Our meeting was on December 21st, four days before Christmas and the new year. I then proceeded to draft a response, which Mr. Wexler has handed up, that response was given to the Executive Session of the Water Authority on their January 27th meeting. My response when I handed it in to the board, I indicated that I addressed all of the concerns on pages 13 and 14 of the report, and I asked that this be incorporated in the Water Authority's reply. The board

members also asked that we be provided a draft copy to review that report when it is prepared, and we were told we would receive same. We never received a copy.

We had inquired about it over the ensuing months, but it seemed that since there was a change in the Presiding Officer and the Legislature and since this committee never resurfaced since December of 2002 ••

LEG. VILORIA • FISHER:

It was an ad hoc committee.

MR. RUSSO:

It was an ad hoc committee. And since it was never recreated by the new Presiding Officer, the issue seemed to dissipate. And as a result, I was concerned because here I thought I gave a full explanation for the concerns that were raised only to find out on Friday and then reconfirm it yesterday •• on Monday, that there was no response, which meant that you never got my reply, which left a cloud over the information that was there, and that response was out there and I did as I was asked to do. And I can respond to any questions in that letter. My concern is that an individual can come before you and raise a whole host of issues, and in turn, when discussing the issues, they're not exactly as they were represented and purported to be. So if you •• then we can go from there.

LEG. VILORIA • FISHER:

Thank you for bringing this, because we had not seen this. But what perplexes me is that this being out there with your name, the resolution being out there publically with your name on it, that you didn't avail yourself of this information until Friday.

MR. RUSSO:

I went through ••

LEG. VILORIA • FISHER:

I'm thinking if my good name were out there, I would certainly have looked at this more closely before this.

MR. RUSSO:

Ms. Fisher, I assumed that the information came to you. And what I've undertaken since I

knew that we were attending this particular session to discuss the matter, in the box in front of me is my copies of 13 and three-quarter years resolutions that were adopted at the Legislature •• I mean, by the Suffolk County Water Authority. I've gone through the entire •• I have •• this is copies of the resolutions, agendas and minutes that's in this box. What I had to do to compile this box was spend the better part of almost a week and a half going through a total of probably 12 boxes of equal size, binders, reports that I have saved for the last 13 and three-quarter years to try and find out exactly what happened and what the history was, because over that period of time, I didn't want to make an inaccurate statement of where we were going and was going on.

It going through those records that I came to realize I never received a copy of that report. And it was then verified by contacting the Legislature's Clerk's Office here to have them verify to me that they never received a copy of that. And it took them two day's effort to try to establish that. They found volumes of papers that were given into Mr. Tonna and to your committee in response to Mr. Tonna's charge for what they wanted from the Legislature and their hearing in June of 2002, but there was no response to this report.

I assumed because there are times as a board member that the board members at the Water Authority, and as you have read in the newspapers over the years, where we're in disagreement with some of the operations and the lack of information that we receive and the manner in which its presented. So I assumed that the report was there. And I assumed my letter had gone in, because I had done what I had requested. And every time I read your resolution, I said, I'm not clear what's going on. Your resolution addressed four points. My letter addresses four points. I responded to this. If Ms. Fisher could only read the report or Ms. Fisher reads my letter that Mr. LoGrande supposedly received on January 27th 2003, she would clearly see that all of this has been addressed. And, yes, after this was given into Mr. LoGrande in 2003, the District Attorney looked into the matter, and the District Attorney concluded later in the year that there were no issues, that everything was completely within the bounds of what was permitted.

So until I saw or heard of your resolution in the end of April of this year, I was of the impression that this whole issue had been resolved and completed. And it wasn't until I had gone through my research and discussed with my counsel that I determined that something is amiss here, that somebody didn't do as they represented they would do to the board members,

and as a result, there was no report to the Legislature. Yes, if you read through the minutes from the September 21st hearing that you had, Mr. LoGrande cites how he has gone through reforms and revisions and changes that have been implemented by the board and the Authority. But it was never completely put forward in a report, because if you recall, as you served on that committee, that whole committee came out of the Presiding Officer discussing issues as it related to Tanglewood Commons, the Coram Water Authority facility, as it related to structural issues at that particular location, and other concerns that he claimed he had concerning the Water Authority. So it involved a series of documents, a series of FOIL requests and information being provided in a hearing that was held here.

My response was supposed to be given to you at the conclusion and in response to yours. So my only concern is since you served on that committee, my question is how come you didn't question that you didn't get a response to the report from the Water Authority since you and Mr. Tonna and others who served on that committee were concerned that they get a proper information? You generated a 46 page report with numerous exhibits, and not got a thing back from the Authority in writing saying, here's how we addressed it, this is what we did, here's where we went.

Unfortunately, as you can see from my letter, my letter was written to LoGrande to incorporate, because Mr. LoGrande's charge throughout that whole period was that this body was an appointing body but had really no oversight jurisdiction. His view was that the Water Authority was a public authority, and as such as a public authority, we were independent, and that we did not have to come before this Legislature to question what was to happen. And, yet, he participated.

LEG. VILORIA • FISHER:

And many of his reports were put on the record here. Many of his responses were put on the record. And you're right, there was •• has any board member seen •• people who served on that committee seen a written response? We have seen responses on the record, you know, when Mr. LoGrande had given responses on the record.

MR. RUSSO:

That's correct. June •• if you go through your minutes, you will find that Mr. LoGrande appeared before this body on June the 7th, 2002 to answer questions of your ad hoc committee, but that was prior you to you issuing a report. Your report cites all of the issues

that you find concerns about through the effort of Mr. Pollert. And I was told that we're going to respond to this, and it didn't happen. So neither the committee inquired what happened, nor did the Chairman and the CEO come back and say here's the report. And I don't understand, if he wasn't forwarding you a response, wouldn't you as part of this committee want a response to address these concerns? I recognize you need me or have requested that I respond, which I've done, I've done it not only once to the Authority and to the board members and thinking that it was being sent to you, but I've accounted to it to the District Attorney, and now I'm here today to openly and fully answer any other questions.

But I find it ironic that after all this information is coming forward, I can go through other documents that I have here and, unfortunately, I find them to be, as far as I'm concerned, falsehoods and fabrications. And I find them to be vitriolic statements that are coming back at me, because, yes, I've known some individuals for a period of years going back 24 years, but it's more personality differences as opposed to issues of how we run and function. I can tell you that for 13 and three-quarter years on the Water Authority, every resolution that sits in this box has been voted on by a majority of the board in total.

There are five members on the board. This body appointed, and their predecessors have appointed the five members that sit there. Those five members consist of Mr. LoGrande as Chairman, who's a municipal planner, there is Dr. Melvin Fritz, who's a physician, there's myself, who from day one has been a zoning attorney, and interested in land use and development, there's been Matty Kondenar, who's now deceased, who used to be a government official in the Highway Department in the Town of Smithtown, there was James Tripp, who was an environmentalist, there's George Proios today who replaced Jim Tripp, who's also an environmentalist, there was John Gee who came from the Town of Smithtown and who was a union official and a laborer, and there is also now Bernard Brady, who's a school teacher and who is a union president.

The point is that the board is made up of five individuals who come together, and we do the Water Authority business as it relates to policies and practices and how to run the operations of the Authority and make decisions as to contracts. There are a series at any given meeting, because we meet once a month, there are a series of anywhere from 25 to 70 resolutions that come before the board in asking for board approval. The board members, in almost all instances, vote unanimously for each of those, because each resolution that comes before the

board comes with a backup information as you would get in this body, in which the members of the Authority sit in the same room with us, and if we have questions about the resolutions, we can inquire and the backup is making the recommendation as to how the board should vote and how the board should proceed.

So in almost every instance and every time, it's a unanimous vote, with the exception, and it has been the policy, that if there is instances in which a conflict arises, and when I say a conflict, we talk about and I will give you an example, the Board of the Water Authority needs a surveyor for a piece of property to do a survey to find out if this particular parcel of property is appropriate for an acquisition for a well. And so in such, we must have the property surveyed. For •• it goes out to public bid, four names come back, all with a price. The names of the surveyors are not familiar to anybody, nobody's seen them until the board meeting, but it turns out in this particular case, I happen to know all four surveyors, because I do real estate and zoning, and as a result, I've either dealt with or am familiar with those individuals. As a result, when the recommendation, because the lowest bidder was one of the four, and the prices came in anywhere from 1000 to \$2500, if I •• the recommendation is a thousand dollars for the survey, and because I knew them, individuals involved, when the motion was put forward by one of the board members and seconded by the other and then goes to a vote, I then indicate that I abstain and the reason for my abstention is because I'm familiar with the parties, and I disclose that. That has been the practice. That has been what Mr. LoGrande has requested that we provide.

LEG. VILORIA • FISHER:

Is that disclosed annually? Oh, you're talking about the vote where you abstain.

MR. RUSSO:

I'm talking at a monthly meeting basis. If you •• I just want to present to you, because if you go into the information, which Mr. LoGrande stated on the record, I have for you, and the members of the board, he made the statement that I abstained 100 times.

LEG. VILORIA • FISHER:

That's what I was looking for in the minutes, yes.

MR. RUSSO:

Correct. And I went through my resolutions, and I have for you here that there was a total of

5,759 resolutions since I joined the board in January 1991. Of the 5,759 resolutions, I abstained a total of 62 times. I'm sorry, that's my count through my minutes that I've received from them. I don't think it was 100, but when you do the numbers, it's a little less than 1% of the resolutions over 13 and three-quarter years. And I'll give you a copy of this, if you want to submit it. I don't know if Mr. Wexler already handed it in, but my point is it's an overexaggerating in terms of, well, okay, 100, 62, I think the way it was stated was there were at least 100 resolutions. Here's the count, and those are additional copies.

My purpose is what was the point of the statement? It had nothing to do with business. And as a matter of fact, at each instance, each resolution passed by the other four member of the board. So my abstention had no bearing except that I was disclosing something to be so, as I was told would be the policy in the manner in which we had to do it. And it was established by Mr. LoGrande.

LEG. VILORIA • FISHER:

Okay. Mr. Russo, going back to the Ad Hoc Water Authority Committee.

MR. RUSSO:

Yes, ma'am.

LEG. VILORIA • FISHER:

And your •• we were inundated by volumes of paper. You may recall that was a contentious issue •• period. And the issues on pages 13 and 14, because they were so focused on one individual and just very black and white accusations, we asked for a response at that time.

MR. RUSSO:

I can respond.

LEG. VILORIA • FISHER:

I have not until this moment seen your letter responding to those accusations. And so you can clearly understand why that would come out as a glaring question that had not •• that had no response. There have been •• there were also many procedural recommendations made by the Budget Review Office to the Water Authority how they conducted themselves in land acquisition. There seemed to be a very sloppy methodology on how they did that, and Mr.

LoGrande, at that time, at the ad hoc •• I'm having to go back a ways to remember why we didn't go through •• methodically through this, whereas with this one issue, if you look back at that, at the minutes, it was probably I, it may have been somebody else, who asked, well, if there is a board member who is engaging in these practices, what can •• what can be done about it? Can you address it? And the answer at that time was it's up to •• it's up to the Legislature to hold the hearings, or some •• some such answer was given to us at that time.

And so that was the other items we had asked for action on the part of the Water Authority. Legislator Alden, you were also a part of that ad hoc committee. Do you recall that part of the conversation where we asked, well, if there are problems with a board member, what can be done? I'm going back a year•and•a•half.

CHAIRMAN ALDEN:

Actually you don't even have to go back there. When Mr. LoGrande appeared before us a couple of weeks ago ••

LEG. VILORIA•FISHER:

Yes.

CHAIRMAN ALDEN:

We specifically asked him, you know, do you have procedures if there's a •• you know, if you perceive a conflict of interest or if you perceive some kind of behavior that might not be, you know, appropriate? Yes, they have that all in place, but it applies to employees, and the board members are not employees. So we're left with a quandary whether •• and it's a question I don't have an answer to •• but does our Commissioner, do they have jurisdiction over, you know, the actions of a board of ••

LEG. VILORIA•FISHER:

Oh, you're talking about the Ethics Board.

CHAIRMAN ALDEN:

Our Ethic Commission.

LEG. VILORIA•FISHER:

Yeah. I believe his answer was that they don't •• that they have an attorney who attends ••

Mr. Hopkins, I believe, is the attorney who deals with ethics issues.

CHAIRMAN ALDEN:

No. That was pretty clear, though. The Water Authority, if it's a, you know, above employee status, they really don't have anything in place, like if it's a member of the board, they don't have anything in place where there could be a complaint and a resolution to it. So they indicated, and that was Chairman LoGrande, said they absolutely do not have anything in place for above an employee. So then the question becomes whether our Commissioner of Ethics •• actually it's the Commissioner of the Ethic Commission, right? Is he the commissioner or is he a president or what is he?

LEG. VILORIA • FISHER:

Chair?

MS. KNAPP:

He's a Chairman.

CHAIRMAN ALDEN:

Chairman. So then it would be •• question would be, you know, whether that would be an appropriate question that we could present to the Chairman of the Ethics Commission and/or, as far as our behavior here, what we could really take up and what we could do on our own, because we do have the authority to appoint and remove ••

LEG. VILORIA • FISHER:

Right.

CHAIRMAN ALDEN:

Water Authority, you know, members of the board.

LEG. VILORIA • FISHER:

That's what he indicated at this meeting, that that was the place where we'd have the authority to have action.

CHAIRMAN ALDEN:

So it either lies here or •• here with a recommendation from the Ethics Commission, I believe that's where the authority lies, but, you know, I'm not going to establish full as far as the authority for the Ethics Commission.

LEG. VILORIA • FISHER:

Yes. And his answer to Legislator Mystal, he said, again, the only thing we can do with respect to board members now is to remind them of it, explain it and disclose it, not really that there was any authority.

CHAIRMAN ALDEN:

And I believe that Mr. Wexler has given us the Water Authority's procedures on ethics questions and things like that, so we can review that and then we'll make up our mind whether, you know, like, Mr. LoGrande's statement was correct or not. And I think that Legislative Counsel has •• still has those documents, and she'll go through it and also give us an analysis of that.

LEG. VILORIA • FISHER:

You know, there were other issues, and I'd have to take a closer look at the documentation that you've brought us, because there were Carnegie Hall tickets, there were tickets for a Chairman's dinner, which is a political •• Republican Chairman's Dinner or club, Chairman's Club, these were all on the •• these are all in the minutes of our last month's meeting.

And again, I'm not comfortable citing as if it were my own testimony somebody else's testimony, so that's why I'm referring to the minutes of what Mr. LoGrande said here. There were issues regarding the mileage on your car as opposed to the mileage on his car. I saw that there were some reference made to that in some of the materials that you have handed into us. But many questions have been raised. You're •• it would be •• I think it would be better to have all parties in the same place at the same time.

Mr. LoGrande gave us testimony two weeks ago or three weeks •• I think maybe a month ago, and at this point, Mr. Russo is speaking with us, and we •• we are having a he said•he said situation without having an open discussion where both parties are in the same place. Now, we don't know why we have not received this letter up until this point, this response. I don't know if he may have given this •• this letter to the •• Mr. Tonna, who was the person who had asked for the responses as the Chair of the Committee and the Presiding Officer. I don't have a copy of the letter. I don't know if any other members of the Ad Hoc Committee have seen this

letter. Mr. Tonna is not here. I don't know if BRO had a copy of that letter. I would like to have the answers to these questions.

CHAIRMAN ALDEN:

Well, I can answer part of your question. If your resolution passes, and I have a few questions of Mr. Russo, Mr. O'Leary and other members of the committee have a few questions, if your resolution passes, that's exactly what you're going to get, you're going to get everybody together.

LEG. VILORIA • FISHER:

And that's what I'm saying.

CHAIRMAN ALDEN:

That's what it would look like. I'll shot over ••

LEG. VILORIA • FISHER:

I'm finished.

CHAIRMAN ALDEN:

Okay. Legislator O'Leary.

LEG. O'LEARY:

I was not a part of the Ad Hoc Committee, but I've certainly had the opportunity to review that report as well as this information that's just coming before us for the first time. And in gleaning through your letter dated January 27th of '03, to Mr. LoGrande, I take note of the fact that you acknowledge the use of the credit card and you do so that it was done inadvertently was the language that you used. I can understand the inadvertent use of a credit card in an isolated incident, but this is over a period, and I'd like to have an explanation. This is over a period of perhaps a month or so, where you inadvertently used the Suffolk County Water Authority Credit Card for what you acknowledge was personal use, but you also point out that the SCWA Credit Card is identical to your personal credit card. My question to you Mr. Russo, if your Counsel would allow you to answer this question, is how could you inadvertently misuse a credit card over a period of time, not an isolated incident, but rather over a period of maybe a month or so?

MR. RUSSO:

Mr. O'Leary, in order to your response, what I've got for you today is a copy of the February, March, and April calender for 2002, and if you want to follow along with your question and then they can make copies for everybody else. If you look at the credit card statement that's attached to my response, the credit card statement indicates that the charges that are of concern start around February 21st and go until March the 4th. It's an 11 day period. That 11 day period happens over a two billing cycle. So the first bill came in, and then the only remaining charge got kicked over to the next month.

Now, what happened is that I had dropped my wallet, and I had also gone on vacation. And in dropping my wallet, the credit cards when they were placed back in the wallet, normally I keep my credit card for the Water Authority in the rear of the wallet and the other one in the front, which is the one I regularly use for my Advantage Miles. When I dropped it, it was just picked up, thrown back in the wallet without paying attention and left for vacation. And the charges or part of the charges are also during when we came back from vacation, because it was that entire week. I never received notification, although it stated at the September 21st meeting by Mr. LoGrande, that I was hounded and called and the individuals who at the Authority were on top of this, if you want to read through those minutes, and I have them here, that they were chasing me for payments. If you look at that calender, we get on a •• for example, if you look at the calender for March ••

CHAIRMAN ALDEN:

Mr. Russo, I'm sorry to interrupt for a second though. Unfortunately, we're a little bit pressed on time, but his question is how did you use the Water Authority, you know, credit card instead of using your own personal credit card?

MR. RUSSO:

Here are the two cards. They look identical. They're both gray, they're both silver, they both have Mastercard. The Water Authority card is the one that goes in the back of the wallet. This is my card that I use in the front. I just keep it in there, and if I walk into a store, I hand them the card. The Water Authority card was placed on top, and it wasn't until I received the statement, which I never got in 11 and a half years from the Water Authority, did I ever get a statement saying that I had charged anything. When I got the statement, I looked and said, oh, my God, and I proceeded to call up the Authority and say, there was an error, I used the

wrong card, several items have been charged, I will call my company and switch them from one card to the other.

I got told it's already been paid. Just send us a check. I immediately sent a check, and the check went out the day I learned of it, which was March the 18th, and I've given you through my Counsel a copy of the check. The check was my check for the sum total, and I have it right here, here's another copy of it, was issued on March 22nd when we cut the bills from my office, and it was immediately sent.

LEG. O'LEARY:

I'm not disputing your explanation of the facts as you present them to us with respect to being notified. But if I understand your explanation correctly, there was •• what you're basically telling us, there was no intent on your part to use the SCWA card.

MR. RUSSO:

Absolutely not.

LEG. O'LEARY:

You were under the impression as you went to credit these purchases you were taking out a card where you normally had your personal card?

MR. RUSSO:

Correct.

LEG. O'LEARY:

And you thought it was personal card?

MR. RUSSO:

Correct.

LEG. O'LEARY:

Once you became aware of the fact that it was not your personal card, you immediately took measures to remedy that problem?

MR. RUSSO:

Correct. Twelve•and•a•half years I've never used the Water Authority Credit Card for any personal purchases. If you go back to the report, and I call your attention to the exhibits, and if you look in the exhibits there, attached to the report, clearly shows there's relatively little use with the exception of one \$49 expense for a meal that I've ever charged to the Water Authority.

LEG. O'LEARY:

And since that •• those occurrences, sir, when you use your credit card, do you look to see who it's made out to?

MR. RUSSO:

Yes.

LEG. O'LEARY:

Okay.

MR. RUSSO:

And the credit card has been removed from the wallet, and I don't use it.

LEG. O'LEARY:

I would hope so.

MR. RUSSO:

So for a year and a half after and 11 •• 12 years before, it was never done. And immediately, and I call again your attention to the Ad Hoc Committee report that Ms. Fisher and Mr. Pollert were involved with it, and it says clearly in one of the exhibits on the report that board members are able to use the credit card for personal use and immediately refund, which was done in both cases, and both checks were giving in upon learning of same, and you have copies of the checks.

LEG. O'LEARY:

I'm satisfied with your explanation, sir. The other issue I just wanted to raise was the one of the •• that was brought to our attention by the Chairman, I guess that's his title at the Water

Authority. Is Mr. LoGrande Chairman?

CHAIRMAN ALDEN:

Yes.

LEG. O'LEARY:

With respect to the conflict of interest issue in showing favoritism to certain parties or a party of parties, but this particular report that you gave to us with respect to the abstentions that you have made over the years, is that what you perceived to be a conflict of interest, where you abstained?

MR. RUSSO:

That's where Mr. LoGrande suggested that I have a conflict. However, what he's not telling you is defining for you is the whole procedure as to resolutions. His other statement is to fact that at the beginning every year, each board member fills out a conflict of interest statement, and I believe my counsel gave you a copy of that, that we have for 2004, 2003, 2002, and I think 2001, or at least •• 2002 through 2004. The statement simply asked, do you have any conflicts, and I put "none" on the form and then signed by name, dated it, printed it, put board member. This is the same form that I've handed in since we've started this, which I believe is in 1999. There's no way of knowing in January if I'm going to have a conflict with anybody throughout the course of the year. However, the only potential conflicts that I've ever had were the resolution issues where I abstained on the record and have given you those computations and calculations.

LEG. O'LEARY:

But just so I understand this particular piece of paper with the abstentions on it, these are cases where you did in fact abstain because you yourself perceived there to be a conflict of interest?

MR. RUSSO:

Either I perceived it to be or it could have been a potential, because I knew the person or because I had done business with the person, so I abstained.

LEG. O'LEARY:

All right. Thank you.

CHAIRMAN ALDEN:

Legislator Nowick, then Legislator Losquadro.

LEG. NOWICK:

Yes. Mr. Russo, I just need to make a few things clear in my mind, you stated that you dropped your wallet and there was a short period in which you continued to use your •• the wrong credit card before going on vacation, and when was that, when was that first time that you used that credit card?

MR. RUSSO:

If you look at the statement that I handed in to you, in the letter, there are the credit card statements attached. The credit card statements show you that the first time that it was used was February 21st, for Rainbow Garage in Newbury, New Hampshire and the 22nd, 24th, 25th.

LEG. NOWICK:

I see that.

MR. RUSSO:

And then the last time was ••

LEG. NOWICK:

I see that. I see that.

MR. RUSSO:

February 28th and March 5th and then it stopped.

LEG. NOWICK:

Okay. I just want to ask you a question. The one on January 30th, Genovese, is that •• that was, like •• that was 20 days before that, was that a Water Authority, Genovese Drugs on January 30th? I'm just trying to get the idea of the timeline.

MR. RUSSO:

The January 28th, I don't know what that charge is for. I would have to •• we'd have to go

back and find it, but when I look at the ••

LEG. NOWICK:

I mean, I see that you did repay it.

MR. RUSSO:

•• statement that I gave you, I repaid it, because whether it was questionable or not, I paid it. The next one was gas, which I did not repay. So if you look at my letter of March 18th, the 37.60, I couldn't tell you whether it was or it wasn't, but I clearly just decided for \$37.60, error on the side of making sure it's correct, and I paid it.

LEG. NOWICK:

Would there often be a reason to go to a drug store to buy something for the Water Authority?

MR. RUSSO:

I honestly •• I don't recall why that was done.

LEG. NOWICK:

Okay. Just one other question, because I want so much to believe what you're saying, and I certainly understand grabbing the wrong credit card, I've done it, I know by daughter always grabs mine by mistake too. The only real problem I have is the Chairman's Club, you literally have to fill out numbers, look at your credit card and fill out numbers, you didn't notice at the time when you were filling out those numbers that ••

MR. RUSSO:

I didn't do it. If you look at the statement that's there, what happened was it was •• it was the Chairman's Club, and my bookkeeper in my office said, how do you want to do this. I said, well if I have to pay Chairman's Club dues, I might as well get air miles, so therefore, put it on my credit card, so use my, you know, credit card, and I said, my wallet's on my desk, just take it, put that on it and do it. And she did, she didn't look at it. And that's what happened. And when I discovered it, I was, like, horrified and paid that one immediately, but they came in two separate statements all in the same 11 day period, because they are two different statements as you can see there.

LEG. NOWICK:

Okay. That was my question. I just couldn't understand how that could be. Thank you.

CHAIRMAN ALDEN:

Legislator Losquadro.

LEG. LOSQUADRO:

First of all, let me say I appreciate you coming down and being so well prepared to answer these questions. As Legislator O'Leary pointed out, many of us were not part of this process as it moved forward in its initial stages. And that last question that was asked, I think, answered the last of the questions that I had. I would just like to say that as far as the conflict of interest form goes, I had to fill one of those out for nine years working for State Farm Insurance. And I have family in the automotive repair business, and I would put down them down, those particular shops, down as businesses I could not frequent as part of my job duties, but that does not cover all instances. You never know when a claim may arise that will involve a neighbor or a friend or an acquaintance, and in that case, I would recuse myself from an investigative capacity in that claim.

So I can see very well where you would run into instances where you would have to abstain or otherwise recuse yourself. For 62 out of over 5700 proposals, I can very well see that happening, especially since you do have ties to that business community as I did in my previous capacity in insurance investigations. So again, thank you for your time.

MR. WEXLER:

Excuse me. May I just say one thing? Just a quick line on that. The reason I proffered that in evidence, that meaning the policy governing conflict of interest and disclosure, I thought it was disingenuous when Chairman LoGrande said that Mr. Russo somehow had not followed procedure, when on a per annum basis, usually it's mid January, each member of the Water Authority fills out a conflict statement where Mr. Russo said, I have "none," n•o•n•e.

Later on in the year, if he determined there may be a potential conflict, he would abstain, as you said, is the appropriate behavior. The reason I proffered the policy governing conflicts of interest and disclosure nowhere, and I sat on this Suffolk County Board of Public Disclosure in the mid '80s, we reviewed these forms, there's no law anywhere that says a member has to go back in time and now readdress it. It's ridiculous. And the statement is most disingenuous by saying that somehow by not doing this, Mr. Russo wronged or did not follow procedure. There's

no procedure, in fact, there's no ability for a member to do that on any given basis, and I'm sure you never did it with Allstate.

LEG. LOSQUADRO:

State Farm.

MR. WEXLER:

State Farm, thank you.

CHAIRMAN ALDEN:

Actually, at this point, I'm going to make •• and I appreciate you coming down, thank you. Just to point out that there was no subpoena or anything like that. It was just on your own voluntary basis to answer questions that the Legislators might have. I'm going to make a motion to table this. I'm going to look through the evidence and the documentation that you've provided to us. I'm also going to reiterate that I'm actually going to go to the Ethics Commission in Suffolk County, and I'm going to seek a couple of rulings from them. I'm going to ask them to review the documentation, review other documentation that took place, the report of the committee, the testimony of Mr. LoGrande and other testimony that would be relevant to this. And I'm going to ask for an advisory •• if they don't have •• if they don't feel they have jurisdiction, I'm going to ask for at least an advisory ruling from them to see as far as if there was in their opinion anything that would warrant any further investigation on our part.

And just to put on the record, I have a problem with •• I have a problem with credit cards. I have a problem with the misuse of credit cards. I have a problem with automobiles and the misuse of automobiles. That might be more systemic than individual on this case. And I intend to file legislation that might eliminate cars and the credit cards and those types of things over at the Water Authority. And I'm going to look at some this information which might bolster my argument in doing so.

The other thing is, just as an attorney, I know that we are supposed to •• and we're held to a very high standard, we're supposed to avoid any appearance of impropriety. And that's what I'm going to take a look at here; was there something else that you could have done or should have done to avoid the appearance of impropriety? And I take it from, you know, some of your responses and things like that, I've only had a quick glance of some of these things, but if you

are an attorney and your regular business is representing people that would be coming before the Water Authority for services and things that, you know, you've got to take extra and special care to avoid even that appearance of impropriety. So those are the issues I'm going to be taking a look at, and that's what I'm going to ask the Ethics Commission to do. With that, motion to table.

LEG. O'LEARY:

Second the tabling motion.

CHAIRMAN ALDEN:

Seconded by Legislator O'Leary.

LEG. VILORIA • FISHER:

Motion to approve.

CHAIRMAN ALDEN:

Motion to approve by Legislator Vilorina • Fisher.

LEG. VILORIA • FISHER:

Yes.

LEG. LINDSAY:

I'm going to second the motion, and the reason for it is I appreciate Mr. Russo and Mr. Wexler coming and sharing this information, and it seems to be, you know, very determinant that there was nothing done wrong here, but I'm still troubled by Mr. LoGrande and the accusations that he made before us. I think we owe it to ourselves and the public to look into that in depth, and I think the only way to do that is at a hearing.

LEG. VILORIA • FISHER:

Yes. As I was waiting for my second, I was going to give the reasons why I was looking for that approval, and that is because of the some of the very reasons that you cite, Mr. Chair, that there are questions that I would like to have answered by the Ethics Commission as well. If you're going to ask them questions, it would be good to have them asked on the record.

CHAIRMAN ALDEN:

They don't do that, though. They don't come down here, they don't ask them questions and

investigate on the record. You present a question to them, they'll do the investigation, then if they are allowed to under their rules and the Charter, they can get back to you on certain things. Other things never ever see ••

LEG. VILORIA • FISHER:

But the type of questions I'm looking at are general questions, not questions with regard to this particular case. And we would want to have those general questions answered, because there was some statements made that were not really clear, and it's been abundantly clear today that they weren't fully fleshed out, number one. Number two, I really feel it's important for the accused to face his accuser in the same venue.

CHAIRMAN ALDEN:

He is. You are right here.

LEG. VILORIA • FISHER:

No. No, I'm not his accuser.

CHAIRMAN ALDEN:

Well, you wrote the resolution, so.

LEG. VILORIA • FISHER:

No. I used in the resolution the •• let me make that perfectly clear, because I am here as a Legislator who served on a committee where there was testimony heard. I am not Mr. Russo's accuser. When there was evidence, and when there was testimony at a Legislative Committee that was troubling to that committee, I asked our Legislature Counsel to put together a resolution calling for the very type of hearing that was suggested by the Water Authority would be the way, the avenue, that we would need to take if we were going to address issues. So, Mr. Russo, I am not your accuser. These are the accusations that were made. This was the information that was given to us as a committee.

CHAIRMAN ALDEN:

Hold on just one second. We can vote on this one of two ways; there's a table, that takes precedence. Your motion, I'm not going to defeat your bill and kill it, which we could do right now, because I don't believe that's the way to go at this point. But I'm going to take it in what our rules call for, the motion to table takes precedence. I'm going to call the vote on that. All those in favor? Opposed to tabling?

LEG. VILORIA•FISHER:

I'm opposed to tabling.

CHAIRMAN ALDEN:

Opposed to tabling? Legislator Viloria•Fisher and Legislator Lindsay are opposed to tabling.

This stands **TABLED. (VOTE:4•2•0•1) (Opposed; Legis. Lindsay and Viloria•Fisher)**
(Not present; Legis Mystal)

Now, we have to take •• basically, we're going into Executive Session. We have a couple of quick questions on settlement proposals, and then we'll come back out and ••

LEG. VILORIA•FISHER:

Mr. Chair, if this is tabled, I believe that this will die, because of the ••

CHAIRMAN ALDEN:

And you know what? I'm going to extend you every courtesy that we can. If you refile, we'll just pick up right where we left off. So, you know, it's not going to be •• we're not using a technicality to deprive of you a ••

LEG. VILORIA•FISHER:

Well, you deprive the people of Suffolk County or you deprive the Legislature. This is not a personal case of someone ••

CHAIRMAN ALDEN:

Okay.

LEG. VILORIA•FISHER:

•• as a plaintiff against another individual. This is a Legislative Resolution.

CHAIRMAN ALDEN:

Okay. And there's a couple of things in it that really need to be updated anyway, a couple of provisions.

We're going to go into Executive Session. We'll have the County Attorney's Office, Legislators, Jim Spero, any other people that are pertinent to that discussion.

(AN EXECUTIVE SESSION WAS HELD FROM 1:08 P.M. UNTIL 1:20 P.M.*)

CHAIRMAN ALDEN:

Okay. We're back out of Executive Session. And we've authorized a settlement in two cases. We're going to develop the evidence on a third. And a motion by Legislator Losquadro to adjourn, seconded by Legislator O'Leary. All in favor? Opposed? Ways and Means stands adjourned. Thank you.

(*THE MEETING WAS ADJOURNED AT 1:20 P.M.*)

_ _ DENOTES BEING SPELLED PHONETICALLY